

THE
DEBATES AND PROCEEDINGS
IN THE
CONGRESS OF THE UNITED STATES;
WITH
AN APPENDIX,
CONTAINING
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,
AND ALL
THE LAWS OF A PUBLIC NATURE;
WITH A COPIOUS INDEX.



VOLUME I,
COMPRISING (WITH VOLUME II) THE PERIOD FROM MARCH 3, 1789,
TO MARCH 3, 1791, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS,
BY JOSEPH GALES, SENIOR.

WASHINGTON:
PRINTED AND PUBLISHED BY GALES AND SEATON.

1834.

A handwritten mark or signature, possibly "J. Gales", written in ink below the printed text.

INTRODUCTION.

VERY SOON after the Treaty of Peace, by which the Independence of the United States was recognised by the Government from which they had effected their separation, the want of a general superintending power over commerce, with the correlative power of taxation, was almost universally felt, and very generally deplored by the inhabitants of all the States, though not to the same extent in all.

It was easier to see the defect, and to feel the evils which flowed from it, than to provide the remedy. Intelligent citizens, however, soon busied themselves in devising the means of forming a Union, which should possess the requisite authority, and become the foundation of certain and durable prosperity.

Of the manner in which this desirable object was consummated, the following brief account is condensed from *Marshall's Life of Washington*, the most authentic history of that period:

While the advocates for Union were exerting themselves to impress its necessity on the public mind, measures were taken in Virginia, which, though originating in different views, terminated in a proposition for a general Convention to revise the state of the Union.

To form a compact relative to the navigation of the rivers Potomac and Pocomoke, and of part of the bay of Chesapeake, commissioners were appointed by the Legislatures of Virginia and Maryland, who assembled in Alexandria, in March, 1785. While at Mount Vernon on a visit, they agreed to propose to their respective Governments the appointment of other commissioners, with power to make conjoint arrangements, to which the assent of Congress was to be solicited, for maintaining a naval force in the Chesapeake; and to establish a Tariff of duties on imports, to which the laws of both States should conform. When these propositions received the assent of the Legislature of Virginia, an additional resolution was passed, directing that which respected the duties on imports to be communicated to all the States in the Union, who were invited to send deputies to the meeting.

On the 21st of January, 1786, a few days after the passage of these resolutions, another was adopted by the same Legislature, appointing certain commissioners, "who were to meet such as might be appointed by

the other States in the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situation and trade of the said States; to consider how far a uniform system in their commercial relations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States, in Congress assembled, effectually to provide for the same."

In the circular letter transmitting these resolutions to the respective States, Annapolis, in Maryland, was proposed as the place, and the ensuing September as the time, of meeting.

The Convention at Annapolis was attended by commissioners from only five States, [New York, New Jersey, Pennsylvania, Delaware, and Virginia.] These, after appointing Mr. DICKINSON their Chairman, proceeded to discuss the objects for which they had convened. Perceiving that more ample powers would be required to effect the beneficial purposes which they contemplated, and hoping to procure a representation from a greater number of States, the Convention determined to rise without coming to any specific resolutions on the particular subject which had been referred to them. Previous to their adjournment, however, they agreed on a Report to be made to their respective States, in which they represented the necessity of extending the revision of the federal system to all its defects, and recommended that Deputies for that purpose be appointed by the several Legislatures, to meet in Convention in the city of Philadelphia, on the second day of the ensuing May.

The reasons for preferring a Convention to a discussion of this subject in Congress, were stated to be, "that, in the latter body, it might be too much interrupted by the ordinary business before them, and would, besides, be deprived of the valuable counsels of sundry individuals who were disqualified by the constitution or laws of particular States, or by peculiar circumstances, from a seat in that assembly."

A copy of this Report was transmitted to Congress in a letter from the Chairman, stating the inefficacy of the Federal Government, and the necessity of devising such further provisions as would render it adequate to the exigencies of the Union.

On receiving this Report, the Legislature of Virginia passed an act for the appointment of Deputies, to meet such as might be appointed by other States; to assemble in Convention at Philadelphia, at the time, and for the purposes specified in the recommendation from the Convention which had met at Annapolis.

At the time and place appointed, the Representatives of twelve States convened. In Rhode Island alone, a spirit sufficiently hostile to every species of reform was found, to prevent the election of Deputies on an occasion so generally deemed momentous. Having unanimously chosen General WASHINGTON for their President, the Convention proceeded, with closed doors, to discuss the interesting and extensive subject submitted to their consideration.

On the 17th of September, the Constitution was presented to the American public. The instrument, with its accompanying resolutions,

was, by the unanimous order of the Convention, transmitted to Congress in the following letter:

IN CONVENTION, *September 17, 1787.*

SIR:

We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired that the power of making war, peace, and treaties, that of levying money, and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the General Government of the Union; but the impropriety of delegating such extensive trust to one body of men is evident: hence results the necessity of a different organization.

It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be preserved; and, on the present occasion, this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety—perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected; and thus, the Constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not, perhaps, to be expected; but each will, doubtless, consider, that had her interest alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that Country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, we have the honor to be, sir, your excellency's most obedient and humble servants. By the unanimous order of the convention.

GEO. WASHINGTON, *President.*

His Excellency the President of Congress.

Congress resolved, unanimously, that the Report, with the letter accompanying it, be transmitted to the several Legislatures, in order to be submitted to a Convention of Delegates chosen in each State by the People thereof.

After a discussion of the Constitution in the Conventions of the several States, during which its ultimate fate hung for some time in dubious and painful suspense, the Conventions of eleven out of the thirteen States assented to, and ratified the Constitution in the following form:

CONSTITUTION OF THE UNITED STATES,

AS ORIGINALLY ADOPTED.*

WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.—SECTION I.

1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantations one; Connecticut five; New York six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five; and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker, and other officers, and shall have the sole power of impeachment.

SECTION 3.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

* The *Amendments* subsequently adopted, and which are now a part of the Constitution, will be found in the Appendix, at the close of this volume.

INTRODUCTION.

ix

SECTION 4.

1. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5.

1. Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION 7.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the person voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8.

The Congress shall have power—

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States:

2. To borrow money on the credit of the United States:

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

INTRODUCTION.

7. To establish post offices and post roads:
8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:
9. To constitute tribunals inferior to the Supreme Court; to define and punish piracies and felonies committed on the high seas, and offences against the law of nations:
10. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:
11. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:
12. To provide and maintain a navy:
13. To make rules for the government and regulation of the land and naval forces:
14. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:
15. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:
16. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: and,
17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.

SECTION 9.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.
2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.
3. No bill of attainder, or *ex post facto* law, shall be passed.
4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.
5. No tax or duty shall be laid on articles exported from any State; no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.
6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.
7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any King, Prince, or foreign State.

SECTION 10.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.
2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.—SECTION 1.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:
2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.
3. The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall

make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then from the five highest on the list the said House shall, in like manner, choose the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice President.

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

9. "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECTION 2.

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3.

1. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION 4.

1. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.—SECTION 1.

1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges,

INTRODUCTION.

both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SECTION 2.

1. The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.—SECTION 1.

1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4.

1. The United States shall guaranty to every State in this Union a republican form of Government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.

ARTICLE V.

1. The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

2. This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

1. The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same.

Done in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,
President and deputy from Virginia.

NEW HAMPSHIRE.

John Langdon,
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

CONNECTICUT.

William Samuel Johnson,
Roger Sherman.

NEW YORK.

Alexander Hamilton.

NEW JERSEY.

William Livingston,
David Brearly,
William Patterson,
Jonathan Dayton.

PENNSYLVANIA.

Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

DELAWARE.

George Read,
Gunning Bedford, Jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.

James McHenry,
Daniel of St. Tho. Jenifer,
Daniel Carroll.

VIRGINIA.

John Blair,
James Madison, Jun.

NORTH CAROLINA.

William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

SOUTH CAROLINA.

John Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.

William Few,
Abraham Baldwin.

Attest,

WILLIAM JACKSON, *Secretary.*

The preparatory measures having been taken for bringing the constitution into operation, and the necessary elections of Representatives, Senators, President, and Vice President, having been held, nothing remained to start it into life but the assembly and organization of the two Houses of Congress.

HISTORY

OF

THE PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIRST CONGRESS, BEGUN AT THE CITY OF
NEW YORK, MARCH 4, 1789,

UNDER THE CONSTITUTION SUBMITTED BY THE FEDERAL CONVENTION IN
PHILADELPHIA, SEPTEMBER 18, 1787.

[This seems to be a proper place to notice a fact, which is necessary to account for the meagreness of the report of the Senate proceedings in the earlier days of the Government, viz: that the Legislative as well as Executive sittings of the Senate were held *with closed doors* until the second session of the third Congress, with the single exception of the discussion of the contested election of A. GALLATIN, as Senator from Pennsylvania, during which discussion the galleries were opened by a special order of the Senate. On the 20th February, 1794, the Senate came to a resolution that, after the end of that session of Congress, the galleries of the Senate should be permitted to be opened whilst the Senate should be engaged in its Legislative capacity, unless specially ordered otherwise. This, it will be perceived, was an important change in the constitution of the Senate.]

WEDNESDAY, March 4, 1789.

This being the day for the meeting of the new Congress, the following members of the Senate appeared and took their seats:

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG.

From Connecticut, WILLIAM S. JOHNSON and OLIVER ELLSWORTH.

From Pennsylvania, WILLIAM MACLAY and ROBERT MORRIS.

From Georgia, WILLIAM FEW.

The members present not being a quorum, they adjourned from day to day, until

WEDNESDAY, March 11.

When the same members being present as on the 4th instant, it was agreed that a circular should be written to the absent members, requesting their immediate attendance.

THURSDAY, March 12.

No additional members appearing, the members present adjourned from day to day, until

WEDNESDAY, March 18.

When no additional members appearing, it was agreed that another circular should be written to eight of the nearest absent members, par-

ticularly desiring their attendance, in order to form a quorum.

THURSDAY, March 19.

WILLIAM PATERSON, from New Jersey, appeared and took his seat.

FRIDAY, March 20.

No additional member appeared.

SATURDAY, March 21.

RICHARD BASSETT, from Delaware, appeared and took his seat.

A sufficient number of members to form a quorum not appearing, the members present adjourned from day to day, until

SATURDAY, March 28.

JONATHAN ELMER, from New Jersey, appeared and took his seat.

No other member appearing, an adjournment took place from day to day, until

MONDAY, April 6.

RICHARD HENRY LEE, from Virginia, then appearing, took his seat, and formed a quorum of the whole Senators of the United States.

The credentials of the members present being read and ordered to be filed, the Senate pro-

SENATE.]

Proceedings.

[APRIL, 1789.]

ceeded, by ballot, to the choice of a President, for the sole purpose of opening and counting the votes for President of the United States.

JOHN LANGDON was elected.

Ordered, That Mr. ELLSWORTH inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates, and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready, in the Senate chamber, to proceed, in the presence of the House, to discharge that duty; and that the Senate have appointed one of their members to sit at the clerk's table to make a list of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

Mr. ELLSWORTH reported that he had delivered the message; and Mr. BOWDNOT, from the House of Representatives, informed the Senate that the House is ready forthwith to meet them, to attend the opening and counting of the votes of the electors of the President and Vice President of the United States.

The Speaker and the members of the House of Representatives attended in the Senate chamber; and the President elected for the purpose of counting the votes, declared that the Senate and House of Representatives had met, and that he, in their presence, had opened and counted the votes of the electors for President and Vice President of the United States, which were as follows:

STATES.	Electors									
	George Washington, Esq.	John Adams, Esq.	Samuel Huntington, Esq.	John Jay, Esq.	John Hancock, Esq.	Robert H. Harrison, Esq.	George Clinton, Esq.	John Rutledge, Esq.	John Milton, Esq.	James Armstrong, Esq.
New Hampshire,	3	3								
Massachusetts,	10	10								
Connecticut,	7	5	2							
New Jersey,	6	1		5						
Pennsylvania,	10	8			2					
Delaware,	3			3						
Maryland,	6					6				
Virginia,	10	5		1	1		3			
South Carolina,	7				1			6		
Georgia,	5								2	1
Total,	69	34	2	9	4	6	3	6	2	1

Whereby it appeared that GEORGE WASHINGTON, Esq. was elected President, and JOHN ADAMS, Esq. Vice President of the United States of America.

Mr. MADISON, from the House of Representatives, thus addressed the Senate:

Mr. President: I am directed by the House of Representatives to inform the Senate, that the House have agreed that the notifications of the election of the President and of the Vice President of the United States, should be made by such persons, and in such manner, as the Senate shall be pleased to direct.

And he withdrew.

Whereupon, the Senate appointed CHARLES THOMSON, Esq. to notify GEORGE WASHINGTON, Esq. of his election to the office of President of the United States of America, and Mr. SYLVANUS BOURN, to notify JOHN ADAMS, Esq. of his election to the office of Vice President of the said United States.

A letter was received from James Duane, Esq. enclosing resolutions of the mayor, aldermen, and commonalty, of the city of New York, tendering to Congress the use of the City Hall.

James Mathews was elected door-keeper.

TUESDAY, April 7.

MESSRS. ELLSWORTH, PATERSON, MACLAY, STRONG, LEE, BASSETT, FEW, and WINGATE, were appointed a committee to bring in a bill for organizing the Judiciary of the United States.

MESSRS. ELLSWORTH, LEE, STRONG, MACLAY, and BASSETT, were appointed a committee to prepare rules for the government of the two Houses in cases of conference, and to take under consideration the manner of electing chaplains, and to confer thereupon with a committee of the House of Representatives.

The same committee were also to prepare rules for conducting the business of the Senate.

WEDNESDAY, April 8.

The Senate proceeded to ballot for a Secretary, and SAMUEL ALYNE OTIS, Esq. was elected. Cornelius Maxwell was appointed messenger.

THURSDAY, April 9.

MESSRS. LANGDON, JOHNSON, and FEW, were appointed a committee to make arrangements for receiving the President, and were empowered to confer with any committee of the House of Representatives that may be appointed for that purpose.

MONDAY, April 13.

RALPH IZARD, from South Carolina, CHARLES CARROLL, from Maryland, and GEORGE REED, from Delaware, appeared and took their seats.

The report of the committee to prepare rules for conducting the business of the Senate was read, and ordered to lie for consideration.

MESSRS. JOHNSON, IZARD, and MACLAY, were appointed a committee to confer with any committee appointed on the part of the House of Representatives, upon the future disposition of the papers in the office of the late Secretary of Congress, and report thereon.

The committee appointed to make arrange-

APRIL, 1789.]

Proceedings.

[SENATE.]

ments for receiving the President, were directed to settle the manner of receiving the Vice President also.

Mr. CARROLL and Mr. IZARD were added to the Judiciary Committee.

TUESDAY, April 14.

TRISTRAM DALTON, from Massachusetts, appeared and took his seat.

A letter was written to the mayor of the city of New York, by the President of the Senate, acknowledging the respect shown to the Government, and accepting of the offer made by him of the City Hall for the use of Congress.

WEDNESDAY, April 15.

The committee appointed the 7th of April, to prepare a system of rules to govern the two Houses in cases of conference, to take into consideration the manner of electing chaplains, and to confer thereon with a committee of the House of Representatives, reported:

That they had conferred with a committee of the House of Representatives, for that purpose appointed.

Whereupon,

Resolved, That, in every case of an amendment to a bill agreed to in one House and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient time, to be agreed on by their chairman, meet in the conference chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon.

The committee abovementioned further reported.

That two chaplains, of different denominations, be appointed to Congress for the present session, the Senate to appoint one, and give notice thereof to the House of Representatives, who shall, thereupon, appoint the other; which chaplains shall commence their services in the Houses that appoint them, but shall interchange weekly.

Which was also accepted.

The committee to whom it was referred to consider of, and report respecting the ceremonial of receiving the President, and the arrangements necessary for the reception of the Vice President, agreed to the following report, viz:

That Mr. Osgood, the proprietor of the house lately occupied by the President of Congress, be requested to put the same, and the furniture thereof, in proper condition for the residence and use of the President of the United States, and otherwise, at the expense of the United States, to provide for his temporary accommodation.

That it will be more eligible, in the first instance, that a committee of three members from the Senate, and five members from the House of Representatives, to be appointed by the two Houses respectively, attend to receive the President, at such place as he shall embark from New Jersey to this city, and conduct him, without form, to the house lately oc-

cupied by the President of Congress; and that, at such time thereafter as the President shall signify it will be most convenient for him, he be formally received by both Houses.

That a committee of two members from the Senate, and three members from the House of Representatives, to be appointed by the Houses respectively, wait on the Vice President of the United States, as soon as he shall come to this city, and, in the name of the Congress of the United States, congratulate him on his arrival.

Which report was read and accepted.

The Senate proceeded to the consideration of the report of the committee upon rules for conducting the business of the Senate, and, after some progress, adjourned to 11 o'clock to-morrow morning.

THURSDAY, April 16.

The Senate proceeded by ballot to the choice of the committees, conformably to the report of the committee of both Houses, agreed to on the 15th instant: Mr. LANGDON, Mr. CARROLL, and Mr. JOHNSON, were appointed to wait on the President, and Mr. ELLSWORTH, and Mr. DALTON, were appointed to wait on the Vice President.

Ordered, That Mr. STRONG, Mr. IZARD, and Mr. LEE, be a committee to report a mode of communication to be observed between the Senate and House of Representatives with respect to papers, bills, and messages, and to confer thereon with such committee as may be appointed by the House of Representatives for that purpose.

The report of the committee appointed to determine upon rules for conducting business in the Senate was agreed to. Whereupon,

Resolved, That the following rules, from No. I to XIX, inclusive, be observed:

I. The President having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries.

II. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the journals or public papers are reading; or when any member is speaking in any debate.

III. Every member, when he speaks, shall address the chair, standing in his place, and when he has finished shall sit down.

IV. No member shall speak more than twice in any one debate on the same day, without leave of the Senate.

V. When two members rise at the same time, the President shall name the person to speak; but in all cases the member first rising shall speak first.

VI. No motion shall be debated until the same shall be seconded.

VII. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President, or any member, delivered in at the table, and read by the President before the same shall be debated.

VIII. While a question is before the Senate, no motion shall be received unless for an amendment,

SENATE.]

Proceedings.

APRIL, 1789.

for the previous question, or for postponing the main question, or to commit it, or to adjourn.

IX. The previous question being moved and seconded, the question from the chair shall be: "Shall the main question be now put?" And if the nays prevail, the main question shall not then be put.

X. If a question in debate contain several points, any member may have the same divided.

XI. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.

XII. One day's notice at least shall be given of an intended motion for leave to bring in a bill.

XIII. Every bill shall receive three readings previous to its being passed; and the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise.

XIV. No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

XV. All committees shall be appointed by ballot, and a plurality of votes shall make a choice.

XVI. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

XVII. If a member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter.

XVIII. When a blank is to be filled, and different sums shall be proposed, the question shall be taken on the highest sum first.

XIX. No member shall absent himself from the service of the Senate without leave of the Senate first obtained.

FRIDAY, April 17.

The petition of Leonard Bleecker, to be appointed sergeant-at-arms, was read, and ordered to lie on the table.

SATURDAY, April 18.

A letter from the Speaker of the House to the President was read, enclosing a concurrence of the House, with the resolve of Senate of the 15th, upon the mode of conference between the Senate and House of Representatives; also, a concurrence upon the mode of choosing chaplains.

On motion,

Resolved, That the following be subjoined to the standing orders of the Senate:

XX. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the President or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

MONDAY, April 20.

JOHN HENRY, from Maryland, and JAMES GUNN, from Georgia, appeared and took their seats.

Messrs. STRONG and IZARD, were appointed a committee to wait on the Vice President, and conduct him to the Senate chamber.

TUESDAY, April 21.

The committee appointed to conduct the Vice President to the Senate chamber, executed their commission, and Mr. LANGDON, the Vice President pro tempore, meeting the Vice President on the floor of the Senate chamber, addressed him as follows.

SIR: I have it in charge from the Senate, to introduce you to the chair of this House; and, also, to congratulate you on your appointment to the office of Vice President of the United States of America.

After which Mr. LANGDON conducted the Vice President to the chair, when the Vice President addressed the Senate as follows:

Gentlemen of the Senate:

Invited to this respectable situation by the suffrages of our fellow-citizens, according to the Constitution, I have thought it my duty cheerfully and readily to accept it. Unaccustomed to refuse any public service, however dangerous to my reputation, or disproportioned to my talents, it would have been inconsistent to have adopted another maxim of conduct at this time, when the prosperity of the country, and the liberties of the people, require, perhaps, as much as ever, the attention of those who possess any share of the public confidence.

I should be destitute of sensibility, if, upon my arrival in this city, and presentation to this legislature, and especially to this Senate, I could see, without emotion, so many of those characters, of whose virtuous exertions I have so often been a witness—from whose countenances and examples I have ever derived encouragement and animation; whose disinterested friendship has supported me, in many intricate conjunctures of public affairs, at home and abroad; those celebrated defenders of the liberties of this country, whom menaces could not intimidate, corruption seduce, or flattery allure: those intrepid assertors of the rights of mankind, whose philosophy and policy have enlightened the world, in twenty years, more than it was ever before enlightened in many centuries, by ancient schools, or modern universities.

I must have been inattentive to the course of events, if I were either ignorant of the fame, or insensible to the merit of those other characters in the Senate, to whom it has been my misfortune to have been hitherto personally unknown.

It is with satisfaction that I congratulate the people of America on the formation of a national Constitution, and the fair prospect of a consistent administration of a government of laws. On the acquisition of a House of Representatives, chosen by themselves; of a Senate thus composed by their own State Legislatures; and on the prospect of an executive authority, in the hands of one whose portrait I shall not presume to draw. Were I blessed

APRIL, 1789.]

Proceedings.

[SENATE.]

with powers to do justice to his character, it would be impossible to increase the confidence or affection of his country, or make the smallest addition to his glory. This can only be effected by a discharge of the present exalted trust on the same principles, with the same abilities and virtues, which have uniformly appeared in all his former conduct, public or private. May I, nevertheless, be indulged to inquire, if we look over the catalogue of the first magistrates of nations, whether they have been denominated presidents or consuls, kings or princes, where shall we find one, whose commanding talents and virtues, whose over-ruling good fortune, have so completely united all hearts and voices in his favor? who enjoyed the esteem and admiration of foreign nations and fellow-citizens with equal unanimity? Qualities so uncommon, are no common blessings to the country that possesses them. By those great qualities, and their benign effects, has Providence marked out the head of this nation, with a hand so distinctly visible, as to have been seen by all men, and mistaken by none.

It is not for me to interrupt your deliberations by any general observations on the state of the nation, or by recommending or proposing any particular measure. It would be superfluous, to gentlemen of your great experience, to urge the necessity of order. It is only necessary to make an apology for myself. Not wholly without experience in public assemblies, I have been more accustomed to take a share in their debates, than to preside in their deliberations. It shall be my constant endeavor to behave towards every member of this most honorable body with all that consideration, delicacy, and decorum, which becomes the dignity of his station and character; but if, from inexperience or inadvertency, any thing should ever escape me, inconsistent with propriety, I must entreat you, by imputing it to its true cause, and not to any want of respect, to pardon and excuse it.

A trust of the greatest magnitude is committed to this Legislature; and the eyes of the world are upon you. Your country expects, from the results of your deliberations, in concurrence with the other branches of Government, consideration abroad, and contentment at home—prosperity, order, justice, peace, and liberty. And may God Almighty's Providence assist you to answer their just expectations.

WEDNESDAY, April 22.

Saturday next was assigned for proceeding to elect a chaplain.

The petition of William Finnie to be appointed sergeant-at-arms, was read and laid on the table.

THURSDAY, April 23.

The committee appointed on the 16th of April, to report a mode of communication to be observed between the Senate and House of Representatives, with respect to papers, bills, and messages, and to confer thereon with such committee as may be appointed by the House of Representatives for that purpose, have conferred with a committee of the House, and have agreed to the following report:

When a bill or other message shall be sent from the Senate to the House of Representatives, it shall

be carried by the Secretary, who shall make one obeisance to the Chair, on entering the door of the House of Representatives, and another on delivering it at the table into the hands of the Speaker. After he shall have delivered it, he shall make an obeisance to the Speaker, and repeat it as he retires from the House.

When a bill shall be sent up by the House of Representatives to the Senate, it shall be carried by two members, who, at the bar of the Senate, shall make their obeisance to the President, and thence, advancing to the Chair, make a second obeisance, and deliver it into the hands of the President. After having delivered the bill, they shall make their obeisance to the President, and repeat it as they retire from the bar. The Senate shall rise on the entrance of the members within the bar, and continue standing until they retire.

All other messages from the House of Representatives, shall be carried by one member, who shall make his obeisance as above mentioned; but the President of the Senate, alone, shall rise.—Read and accepted.

On motion,

Resolved, That a committee, consisting of three members, be appointed to consider and report, what style or titles it will be proper to annex to the offices of President and Vice President of the United States; if any other than those given in the Constitution. Also, to consider of the time, place, and manner, in which, and the person by whom, the oath prescribed by the Constitution shall be administered to the President; and to confer thereon with such committee as the House of Representatives shall appoint for that purpose. Mr. LEE, Mr. IZARD, and Mr. DALTON, were chosen.

FRIDAY, April 24.

On motion, to reconsider the commission of the committee appointed the 23d instant, to report what titles shall be annexed to the offices of President and Vice President. Passed in the affirmative.

On motion, that the following words, "What titles it will be proper to annex to the offices of President and of Vice President of the United States; if any other than those given in the Constitution," be struck out. Passed in the negative.

On motion, that the words "style or" before the word "title," be added. Passed in the affirmative.

SATURDAY, April 25.

The Right Reverend SAMUEL PROVOST was elected Chaplain.

A letter from CHARLES THOMSON, Esq. dated the 24th of April, 1789, directed to the President of the Senate, purporting his having delivered to General WASHINGTON, the certificate of his being elected President of the United States, was read, and ordered to be filed.

The committee appointed to consider of the time, place, and manner, in which, and of the person by whom, the oath prescribed by the Constitution shall be administered to the Presi-

SENATE.]

Proceedings.

[APRIL, 1789.]

dent of the United States, and to confer with a committee of the House appointed for that purpose, report:

That the President hath been pleased to signify to them, that any time or place which both Houses may think proper to appoint, and any manner which shall appear most eligible to them, will be convenient and acceptable to him; that requisite preparations cannot probably be made before Thursday next; that the President be on that day formally received by both Houses in the Senate Chamber; that the Representatives' Chamber being capable of receiving the greater number of persons, that, therefore, the President do take the oath in that place, and in the presence of both Houses.

That, after the formal reception of the President in the Senate Chamber, he be attended by both Houses to the Representatives' Chamber, and that the oath be administered by the Chancellor of the State of New York.

The committee farther report it as their opinion, that it will be proper that a committee of both Houses be appointed to take order for conducting the business. Read and accepted.

Whereupon, Mr. LEE, Mr. IZARD, and Mr. DALTON, on the part of the Senate, together with a committee that may be appointed on the part of the House of Representatives, were empowered to take order for conducting the business.

An order of the House of Representatives, concurring in the appointment of a committee on their part to confer with a committee appointed on the 24th instant, on the part of the Senate, to consider and report, "what style, &c. it will be proper to annex to the offices of President and Vice President," was read, by which it appeared, that Mr. BENSON, Mr. AMES, Mr. MADISON, Mr. CARROLL, and Mr. SHERMAN, were appointed on the part of the House.

MONDAY, April 27.

The committee appointed to take order for conducting the ceremonial of the formal reception, &c. of the President, reported:

That it appears to them more eligible that the oath should be administered to the President in the outer gallery adjoining the Senate Chamber, than in the Representatives' Chamber, and, therefore, submit to the respective Houses the propriety of authorizing their committee to take order as to the place where the oath shall be administered to the President, the resolution of Saturday assigning the Representatives' Chamber as the place, notwithstanding. Read and accepted.

Resolved, That after the oath shall have been administered to the President, he, attended by the Vice President, and members of the Senate, and House of Representatives, proceed to St. Paul's Chapel, to hear divine service, to be performed by the Chaplain of Congress already appointed. Sent to the House of Representatives for concurrence.

TUESDAY, April 28.

Received from the House of Representatives, the report of a joint committee on the cere-

monial to be observed in administering the oath, &c. to the President; and a bill to regulate the time and manner of administering certain oaths. The report was read and ordered to lie on the table; and the bill received its first reading.

The committee appointed to report a mode of communication between the two Houses, with respect to papers, bills, &c. and to whom the subject was recommended, having again conferred with the committee of the House of Representatives, agreed upon a report, which was read, and ordered to lie for consideration.

WEDNESDAY, April 29.

The Senate proceeded to the second reading of the bill to regulate the time and manner of administering certain oaths; and, after debate, it was committed to MESSRS. STRONG, PATTERSON, REED, JOHNSON, and HENRY.

A letter from the Speaker of the House of Representatives, to the Vice President, was read, communicating the concurrence of the House on a report of a joint committee, on the mode of communicating papers, bills, and messages, between the Senate and House of Representatives;

Also, the concurrence of the House with the Senate, on the appointment of a committee respecting the future disposition of the papers in the office of the late Secretary; and Mr. TRUMBULL, Mr. CADWALLADER, and Mr. JACKSON, were joined.

THURSDAY, April 30.

The report of the committee on the mode of communication between the Senate and House of Representatives, was taken up, and, after debate, postponed.

Mr. LEE, in behalf of the committee appointed to take order for conducting the ceremonial of the formal reception, &c. of the President of the United States, having informed the Senate that the same was adjusted, the House of Representatives were notified that the Senate were ready to receive them in the Senate Chamber, to attend the President of the United States, while taking the oath required by the Constitution. Whereupon, the House of Representatives, preceded by their Speaker, came into the Senate Chamber, and took the seats assigned them, and the joint committee, preceded by their chairman, agreeably to order, introduced the President of the United States to the Senate Chamber, where he was received by the Vice President, who conducted him to the chair, when the Vice President informed him, that "the Senate, and House of Representatives of the United States, were ready to attend him to take the oath required by the Constitution, and that it would be administered by the Chancellor of the State of New York." To which the President replied, he was ready to proceed: and being attended to the gallery in front of the Senate Chamber, by the Vice President and Senators, the Speaker and Re-

MAY, 1789.]

Proceedings.

[SENATE.]

representatives, and the other public characters present, the oath was administered. After which, the Chancellor proclaimed, "*Long live George Washington, President of the United States.*"

The PRESIDENT, having returned to his seat, after a short pause arose, and addressed the Senate and House of Representatives as follows:

*Fellow Citizens of the Senate, and
of the House of Representatives:*

Among the vicissitudes incident to life, no event could have filled me with greater anxieties than that of which the notification was transmitted by your order, and received on the 14th day of the present month. On the one hand, I was summoned by my country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years: a retreat which was rendered every day more necessary, as well as more dear to me, by the addition of habit to inclination, and of frequent interruptions in my health, to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens a distrustful scrutiny into his qualifications, could not but overwhelm with despondence one, who, inheriting inferior endowments from nature, and unpractised in the duties of civil administration, ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions, all I dare avow, is, that it has been my faithful study to collect my duty from a just appreciation of every circumstance by which it might be effected. All I dare hope is, that if, in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow-citizens, and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me, my error will be palliated by the motives which misled me, and its consequences be judged by my country, with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the public summons, repaired to the present station, it would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being, who rules over the universe—who presides in the councils of nations—and whose providential aids can supply every human defect—that his benediction may consecrate to the liberties and happiness of the people of the United States, a Government instituted by themselves, for these essential purposes: and may enable every instrument employed in its administration to execute with success the functions allotted to his charge. In tendering this homage to the Great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own, nor those of my fellow-citizens at large less than either. No people can be bound to

acknowledge and adore the invisible hand which conducts the affairs of men, more than the people of the United States. Every step by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency; and in the important revolution just accomplished in the system of their united Government, the tranquil deliberations and voluntary consent of so many distinct communities from which the event has resulted, cannot be compared with the means by which most Governments have been established, without some return of pious gratitude, along with an humble anticipation of the future blessings which the past seems, to presage. These reflections, arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me, I trust, in thinking, that there are none under the influence of which the proceedings of a new and free Government can more auspiciously commence.

By the article establishing the executive department, it is made the duty of the President "to recommend to your consideration such measures as he shall judge necessary and expedient." The circumstances under which I now meet you will acquit me from entering into that subject, further than to refer to the great constitutional charter under which you are assembled, and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude, and the patriotism, which adorn the characters selected to devise and adopt them. In these honorable qualifications, I behold the surest pledges, that, as on one side no local prejudices or attachments, no separate views, nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests; so, on another, that the foundations of our national policy will be laid in the pure and immutable principles of private morality, and the pre-eminence of free Government be exemplified by all the attributes which can win the affections of its citizens, and command the respect of the world. I dwell on this prospect with every satisfaction which an ardent love for my country can inspire: since there is no truth more thoroughly established, than that there exists, in the economy and course of nature, an indissoluble union between virtue and happiness; between duty and advantage; between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity: since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained; and since the preservation of the sacred fire of liberty, and the destiny of the republican model of Government, are justly considered as deeply, perhaps as finally, staked, on the experiment entrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide how far an exercise of the occasional power dele-

SENATE.]

Proceedings.

MAY, 1789.

gated by the fifth article of the Constitution, is rendered expedient at the present juncture, by the nature of objections which have been urged against the system, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good: for, I assure myself, that whilst you carefully avoid every alteration which might endanger the benefits of a united and effective Government, or which ought to await the future lessons of experience; a reverence for the characteristic rights of freemen, and a regard for the public harmony, will sufficiently influence your deliberations on the question, how far the former can be more impreguably fortified, or the latter be safely and advantageously promoted.

To the preceding observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will, therefore, be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed. And being still under the impressions which produced it, I must decline, as inapplicable to myself, any share in the personal emoluments which may be indispensably included in a permanent provision for the executive department; and must accordingly pray that the pecuniary estimates for the station in which I am placed may, during my continuance in it, be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the human race, in humble supplication, that, since He has been pleased to favor the American people with opportunities for deliberating in perfect tranquillity, and dispositions for deciding with unparalleled unanimity on a form of Government for the security of their union, and the advancement of their happiness, so his divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures, on which the success of this Government must depend.

G. WASHINGTON.

April 30, 1789.

The President, the Vice President, the Senate, and House of Representatives, &c. then proceeded to St. Paul's Chapel, where divine service was performed by the chaplain of Congress, after which the President was reconducted to his house by the committee appointed for that purpose.

The Vice President and Senate returned to the Senate Chamber; and,

Upon motion, unanimously agreed, That a committee of three should be appointed to prepare an answer to the President's speech. Mr.

JOHNSON, Mr. PATERSON, and Mr. CARROLL, were elected.

FRIDAY, May 1.

The report of the joint committee, to whom was recommitted the mode of communication between the Senate and House of Representatives, as made by the committee on the part of the Senate, was taken up, and not accepted.

The same report of the committee on the part of the House, and the acceptance thereof by the House, was considered in the Senate, and it was determined that it should lie until further order.

A motion, "That, when a messenger shall come from the House of Representatives to the Senate, and shall be announced by the door-keeper, the messenger shall be received at the bar of this House by the Secretary, and the bill or paper that he may bring shall there be received from him by the Secretary, who shall deliver it to the President of the Senate," was committed to Mr. ELLSWORTH, Mr. LEE, and Mr. READ.

And the committee were instructed to report a mode of sending papers, bills, and messages, from the Senate to the House of Representatives.

SATURDAY, May 2.

Agreed, That, until a permanent mode of communication shall be adopted between the Senate and House of Representatives, the Senate will receive messages by the Clerk of the House, if the House shall think proper to send him; and papers sent from the House shall be delivered to the Secretary at the bar of the Senate, and by him be conveyed to the President.

A message from the House of Representatives, by Mr. Beckley, their Clerk, brought to the Senate the proceedings of the House on a resolution of the Senate of the 27th ult.; also, communicated the appointment of the Rev. William Lynn, D. D. one of the Chaplains of Congress.

Mr. STRONG, from the committee to whom the bill from the House of Representatives was referred, to regulate the time and manner of administering certain oaths, reported sundry amendments thereto, which were assigned for consideration on Monday next.

MONDAY, May 4.

The Senate proceeded to the consideration of the report of the committee on the bill to regulate the time and manner of administering certain oaths.

In line 1, strike out the words "Congress of the United States," and insert, "Senate and Representatives of the United States of America, in Congress assembled."

At the end of the second paragraph, add the words "of the Senate," and insert the following clause: "And be it further enacted, That the members of the several State Legislatures, and all execu-

MAY, 1789.]

Proceedings.

[SENATE.]

tive and judicial officers of the several States, who have been heretofore chosen or appointed, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State in which such office shall be holden to administer oaths. And the members of the several State Legislatures, and all executive and judicial officers of the several States, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons, who, by the law of the State, shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken, shall cause a record or certificate thereof to be made, in the same manner as, by the law of the State, he or they shall be directed to record or certify the oath of office."

In the last paragraph, strike out the words "of the United States of America," in the third and fourth lines, and insert the same words in the fourth line next after the words "as the case may be;"—and which being accepted, Tuesday morning, 11 o'clock, was assigned for the third reading of the bill.

TUESDAY, May 5.

The bill to regulate the time and manner of administering certain oaths was read the third time and passed, with amendments.

Ordered, That the Secretary carry the aforementioned bill to the House of Representatives, together with the amendments, and address the Speaker in the words following:

Sir:

The Senate have passed the bill, entitled "An act to regulate the time and manner of administering certain oaths," with amendments, to which they desire the concurrence of your House.

Ordered, That when a bill has passed the Senate, the Secretary shall endorse the final determination thereon, and the day when such final question was taken, previous to its being transmitted to the House of Representatives.

Adjourned to Thursday morning.

THURSDAY, May 7.

The committee appointed to confer with such committee as might be appointed on the part of the House of Representatives, to report what style or titles it will be proper to annex to the offices of President and of Vice President of the United States, if any other than those given in the Constitution, reported.

Which report was ordered to lie for consideration.

The report of the committee upon the motion committed May 1st, was considered, and the first paragraph thereof accepted; whereupon,

Ordered, That, when a messenger shall come from the House of Representatives to the Senate, and

shall be announced by the door-keeper, the messenger or messengers being a member or members of the House, shall be received within the bar, the President rising when the message is by one member, and the Senate also when it is by two or more: if the messenger be not a member of the House, he shall be received at the bar by the Secretary, and the bill or papers that he may bring shall there be received from him by the Secretary, and be by him delivered to the President.

The committee appointed to prepare an answer to the President's speech, delivered to the Senate and House of Representatives of the United States, reported as follows:

Sir: We, the Senate of the United States, return you our sincere thanks for your excellent speech delivered to both houses of Congress; congratulate you on the complete organization of the Federal Government; and felicitate ourselves and our fellow-citizens on your elevation to the office of President; an office highly important by the powers constitutionally annexed to it, and extremely honorable from the manner in which the appointment is made. The unanimous suffrage of the elective body in your favor, is peculiarly expressive of the gratitude, confidence, and affection of the citizens of America, and is the highest testimonial at once of your merit and their esteem. We are sensible, sir, that nothing but the voice of your fellow-citizens could have called you from a retreat, chosen with the fondest predilection, endeared by habit, and consecrated to the repose of declining years. We rejoice, and with us all America, that, in obedience to the call of our common country, you have returned once more to public life. In you all parties confide; in you all interests unite; and we have no doubt that your past services, great as they have been, will be equalled by your future exertions; and that your prudence and sagacity as a statesman will tend to avert the dangers to which we are exposed, to give stability to the present Government, and dignity and splendor to that country, which your skill and valor, as a soldier, so eminently contributed to raise to independence and empire.

When we contemplate the coincidence of circumstances, and wonderful combination of causes, which gradually prepared the people of this country for independence; when we contemplate the rise, progress, and termination of the late war, which gave them a name among the nations of the earth; we are, with you, unavoidably led to acknowledge and adore the great Arbiter of the universe, by whom empires rise and fall. A review of the many signal instances of divine interposition in favor of this country claims our most pious gratitude; and permit us, sir, to observe, that, among the great events which have led to the formation and establishment of a Federal Government, we esteem your acceptance of the office of President as one of the most propitious and important.

In the execution of the trust reposed in us, we shall endeavor to pursue that enlarged and liberal policy to which your speech so happily directs. We are conscious that the prosperity of each State is inseparably connected with the welfare of all, and that, in promoting the latter, we shall effectually advance the former. In full persuasion of this truth,

SENATE.]

Proceedings.

[MAY, 1789.]

it shall be our invariable aim to divest ourselves of local prejudices and attachments, and to view the great assemblage of communities and interests committed to our charge with an-equal eye. We feel, sir, the force, and acknowledge the justness of the observation, that the foundation of our national policy should be laid in private morality. If individuals be not influenced by moral principles, it is in vain to look for public virtue; it is, therefore, the duty of legislators to enforce, both by precept and example, the utility, as well as the necessity, of a strict adherence to the rules of distributive justice. We beg you to be assured that the Senate will, at all times, cheerfully co-operate in every measure which may strengthen the Union, conduce to the happiness, or secure and perpetuate the liberties of this great confederated republic.

We commend you, sir, to the protection of Almighty God, earnestly beseeching him long to preserve a life so valuable and dear to the people of the United States; and that your administration may be prosperous to the nation, and glorious to yourself.

Read and accepted; and

Ordered, That the Vice President should affix his signature to the address, in behalf of the Senate.

Mr. Beckley, the Clerk of the House of Representatives, delivered a message, purporting "that the House had concurred with the Senate in the amendments proposed in a bill to regulate the time and manner of administering certain oaths;" and, "that the House proposed an amendment to the third amendment, by inserting after the words 'legislatures in the first place,' the words 'at the next session of the said legislatures respectively.'"

He also brought the Senate a resolve of the House of Representatives, appointing Mr. BLAND, Mr. TRUMBULL, and Mr. VINING, a committee on the part of the House, to confer with any committee to be appointed on the part of the Senate, and report "joint rules to be established between the two Houses, for the enrolment, &c. of the acts of Congress, and to confer on the mode of presenting addresses, bills, &c. to the President."

The Senate agreed to the amendment proposed by the House of Representatives to the amendment of the afore-mentioned bill; and appointed Mr. LANGDON, Mr. READ, and Mr. HENRY, a committee on their part, for the purpose expressed in the resolve of the House of Representatives, received this day; which, together with the concurrence of the Senate to the amendment on the amendment to the bill above mentioned, was carried to the House by the Secretary.

FRIDAY, May 8.

The report of the committee appointed to determine "What style or title it will be proper to annex to the offices of President and Vice President of the United States, if any other than those given in the Constitution;" and to confer with a committee of the House of

Representatives appointed for the same purpose, was considered, and disagreed to.

The question was taken, "Whether the President of the United States shall be addressed by the title of *His Excellency*?" and it passed in the negative.

On motion that a committee of three be appointed to consider and report under what title it will be proper for the Senate to address the President of the United States, Mr. LEE, Mr. ELLSWORTH, and Mr. JOHNSON, were elected.

SATURDAY, May 9.

A message from the House of Representatives informed the Senate that they had accepted the report of the committee appointed to consider what style or title it will be proper to annex to the offices of President and Vice President of the United States, if any other than those given in the Constitution.

Ordered, That Mr. FEW, Mr. MACLAY, and Mr. STORGE, be a committee to view the apartments in the City Hall, and to confer with any committee that may be appointed by the House of Representatives for that purpose, and report how the same shall be appropriated.

The committee appointed to consider under what title it will be proper for the Senate to address the President of the United States, reported; the consideration of which was postponed until Monday next.

The Secretary was charged with a message to the House of Representatives, with the order of Senate passed the 7th instant, on the mode adopted by the Senate in receiving communications from that House.

Ordered, That Mr. LEE, Mr. ELLSWORTH, and Mr. JOHNSON, be a committee to confer with any committee to be appointed by the House of Representatives, on the difference of opinion now subsisting between the two Houses, respecting the title of the President of the United States; and, on motion for reconsideration, the instruction to the committee was agreed to, as follows:

"That they consider and report under what title it will be proper for the President of the United States in future to be addressed, and confer thereon with such committee as the House of Representatives may appoint for that purpose."

The Secretary carried to the House of Representatives the appointment of a committee, on the part of the Senate, to view the rooms in the City Hall, and to confer upon their appropriation;

The rejection of the report of the committee appointed to consider what style, &c. it will be proper to annex to the offices of President and of Vice President;

And the appointment of a committee on the part of the Senate to confer on a title under which it will be proper to address the President of the United States.

MAY, 1789.]

Proceedings.

[SENATE.]

MONDAY, May 11.

Ordered, That the consideration of the report of the committee upon "the title by which it will be proper for the Senate to address the President," be postponed until Tuesday next.

Ordered, That a committee, to consist of Mr. ELLSWORTH, Mr. CARROLL, and Mr. FEW, be appointed, to consider and report a mode of carrying into execution the second paragraph of the third section of the first article of the Constitution.

The committee appointed the 13th of April to confer with a committee of the House of Representatives, upon the future disposition of the papers in the office of the late Secretary of Congress, made a report, which was ordered to lie until a committee, appointed May 7, to confer with a committee of the House "on joint rules to be established for the enrolment, &c. of the acts of Congress," should report.

TUESDAY, May 12.

The Clerk of the House of Representatives delivered a message, purporting that the House had concurred in the appointment of a committee on their part, consisting of Mr. WHITE, Mr. SCOTT, and Mr. STURGES, to confer with the committee appointed on the part of the Senate, May the 9th, on the appropriation of the rooms in the City Hall;

Also, that the House had appointed a committee, consisting of Mr. MADISON, Mr. TRUMBULL, Mr. PAGE, Mr. BENSON, and Mr. SHERMAN, to confer with any committee that the Senate shall appoint on the disagreeing votes of the Senate and House of Representatives upon the report of their joint committee, appointed to consider what titles shall be given to the President and to the Vice President of the United States, if any other than those given in the Constitution.

Ordered, That the committee appointed the 9th of May, to consider "by what title it will be proper for the Senate to address the President of the United States, be instructed to confer with the committee of the House of Representatives, agreeably to the proposition in their message of this day.

A motion for the committee, appointed to address the President, to proceed, was postponed to Thursday next.

WEDNESDAY, May 13.

The committee appointed the 11th inst. on the mode of carrying into execution the second paragraph of the third section of the first article of the Constitution, reported: and the report was ordered to lie for consideration.

Ordered, That Mr. LANGDON, Mr. STRONG, and Mr. CARROLL, be a committee, to confer with any committee that may be appointed on the part of the House of Representatives, and report what newspapers the members of the Senate and House of Representatives shall be furnished with at the public expense.

A committee, consisting of Mr. JOHNSON, Mr. READ, Mr. LANGDON, Mr. MORRIS, Mr.

DALTON, Mr. ELMER, Mr. HENRY, and Mr. GUNN, was appointed to report a bill, defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment.

THURSDAY, May 14.

The petition of Archibald M'Lean, to be employed as a printer to the Senate and House of Representatives, was read, and ordered to lie on the table.

The Secretary carried to the House of Representatives the order of Senate, passed yesterday, appointing a committee to report "what newspapers the members of Congress shall be furnished with at the public expense."

The committee, appointed the 9th instant, to determine "under what title it will be proper for the Senate to address the President," and to confer with a committee of the House of Representatives "upon the disagreeing votes of the Senate and House," informed the Senate that they had conferred with a committee of the House of Representatives, but could not agree upon a report.

The committee, appointed the 9th instant, "to consider and report under what title it will be proper for the Senate to address the President of the United States of America," reported:

That, in the opinion of the committee, it will be proper thus to address the President: *His Highness, the President of the United States of America, and Protector of their Liberties.*"

Which report was postponed; and the following resolve was agreed to, to wit:

From a decent respect for the opinion and practice of civilized nations, whether under monarchical or republican forms of Government, whose custom is to annex titles of respectability to the office of their Chief Magistrate; and that, on intercourse with foreign nations, a due respect for the majesty of the people of the United States may not be hazarded by an appearance of singularity, the Senate have been induced to be of opinion, that it would be proper to annex a respectable title to the office of President of the United States; but, the Senate, desirous of preserving harmony with the House of Representatives, where the practice lately observed in presenting an address to the President was without the addition of titles, think it proper, for the present, to act in conformity with the practice of that House: therefore,

Resolved, That the present address be "To the President of the United States," without addition of title.

A motion was made to strike out the preamble as far as the words "but the Senate;" which passed in the negative:

And, on motion for the main question, it passed in the affirmative.

The committee appointed to consider and report a mode of carrying into effect the provision in the second clause of the third section of the first article of the Constitution, reported; Whereupon,

SENATE.]

Proceedings.

[MAY, 1789.]

Resolved, That the Senators be divided into three classes:

The first to consist of Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn;

The second of Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few;

And the third of Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson.

That three papers of an equal size, numbered 1, 2, and 3, be, by the Secretary, rolled up and put into a box, and drawn by Mr. Langdon, Mr. Wingate, and Mr. Dalton, in behalf of the respective classes, in which each of them are placed; and that the classes shall vacate their seats in the Senate, according to the order of numbers drawn for them, beginning with No. 1.

And that, when Senators shall take their seats from States that have not yet appointed Senators, they shall be placed by lot in the foregoing classes, but in such manner as shall keep the classes as nearly equal as may be in numbers.

The committee appointed to confer with a committee of the House of Representatives, in preparing proper rules to be established for the enrolment, &c. of the acts of Congress, reported; which report was ordered to lie for consideration.

Ordered, That the committee appointed to draught an answer to the President's speech, wait on him, and request him to appoint the time when it will be agreeable to receive the address of the Senate, at his own house.

FRIDAY, May 15.

The committee appointed to draught an answer to the President's speech further reported; whereupon it was

Agreed, That the Senate should wait on the President at his own house on Monday next, at a quarter after 11 o'clock, and that the Vice President then present the address of the Senate, as agreed to on the 7th instant.

The Senate proceeded to determine the classes, agreeably to the resolve of yesterday, on the mode of carrying into effect the provision of the second clause of the third section of the first article of the Constitution; and the numbers being drawn, the classes were determined as follows:

Lot No. 1, drawn by Mr. Dalton contained Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson; whose seats shall, accordingly, be vacated in the Senate at the expiration of the second year.

Lot No. 2, drawn by Mr. Wingate, contained Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few; whose seats shall, accordingly, be vacated in the Senate at the expiration of the fourth year.

Lot No. 3, drawn by Mr. Langdon, contained Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn; whose

seats shall, accordingly, be vacated in the Senate at the expiration of the sixth year.

SATURDAY, May 16.

A message from the House of Representatives informed the Senate that the House had concurred in the appointment of a committee, consisting of Mr. Sylvester, Mr. Wynkoop, and Mr. Smith of South Carolina, to confer with a committee appointed on the part of the Senate the 13th instant, and to report what newspapers the members of Congress shall be furnished with at the public expense; and that it was an instruction to the said committee, on the part of the House, to receive proposals for printing the acts and other proceedings of Congress.

The question being taken, "Whether the Senate will give a similar instruction to the committee on their part?" it passed in the affirmative. And the Secretary informed the House of Representatives of the concurrence.

Ordered, That the petitions from sundry printers, presented to the Senate, be referred to the committee of the Senate appointed the 13th inst.

The committee appointed the 14th of April to consider the mode of keeping and publishing the journals, &c. reported; and the report was ordered to lie on the table.

MONDAY, May 18.

Agreeably to the order of the 15th instant, the Senate waited on the President of the United States at his own house, when the Vice President, in their name, delivered to the President the address agreed to on the 7th inst. To which the President of the United States was pleased to make the following reply:

GENTLEMEN: I thank you for your address, in which the most affectionate sentiments are expressed in the most obliging terms. The coincidence of circumstances which led to this auspicious crisis, the confidence reposed in me by my fellow-citizens, and the assistance I may expect from counsels which will be dictated by an enlarged and liberal policy, seem to presage a more prosperous issue to my administration than a diffidence of my abilities had taught me to anticipate. I now feel myself inexpressibly happy in a belief that Heaven, which has done so much for our infant nation, will not withdraw its providential influence before our political felicity shall have been completed, and in a conviction that the Senate will at all times co-operate in every measure which may tend to promote the welfare of this confederated republic. Thus supported by a firm trust in the great Arbiter of the universe, aided by the collective wisdom of the Union, and imploring the divine benediction on our joint exertions in the service of our country, I readily engage with you in the arduous but pleasing task of attempting to make a nation happy.

G. WASHINGTON.

The Clerk of the House of Representatives brought to the Senate a bill for laying a duty on goods, wares, and merchandises, imported

MAY, 1789.]

Proceedings.

[SENATE.]

into the United States; which he informed the Senate the House had passed, and to which they desired the concurrence of the Senate.

The bill above mentioned was read a first time, and Thursday next was assigned for the second reading.

Ordered, That Mr. LEE be a committee, on the part of the Senate, to join any committee appointed for that purpose on the part of the House of Representatives, to lay before the President of the United States, for his approbation, a bill to regulate the time and manner of administering certain oaths; after it shall be enrolled, examined by the said committee, and signed by the Speaker of the House of Representatives and by the Vice President.

TUESDAY, May 19.

The Secretary carried to the House of Representatives the resolve of the Senate, passed the 18th instant, appointing a committee on their part, to lay before the President a bill to regulate the time and manner of administering certain oaths; after it shall be enrolled, &c.

The committee to whom was referred the motion for printing the journals of the Senate, and furnishing each member with a copy thereof; and also, to report upon the mode of keeping the journals, and who were instructed to consider whether the minutes be amended, so as to record only the acts of the Senate on the journal, reported as follows:

"That one hundred and twenty copies of the journals of the legislative proceedings only be printed once a month, commencing the first publication on the first day of June next, and that each member be furnished with a copy; that the proceedings of the Senate, when they shall act in their executive capacity, shall be entered and kept in separate and distinct books.

"That every vote of the Senate shall be entered on the journals, and that a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, be also inserted on the journals.

"That the journals, previous to each publication, be revised by a committee to be appointed from time to time for that purpose;" which report was accepted.

The committee appointed to confer with a committee of the House of Representatives, and report what newspapers the members of Congress shall be furnished with at the public expense, reported in part; which report was ordered to lie on the table.

Ordered, That Mr. PATERSON, Mr. CARROLL, and Mr. WINGATE, be a committee to revise the journal, previous to its publication.

WEDNESDAY, May 20.

The petition of Thomas Allen, to supply the stationery that may be wanted for the use of Congress, was read, and referred to the committee on petitions of a similar nature.

THURSDAY, May 21.

WILLIAM GRAYSON, from Virginia, appeared and took his seat.

Resolved, That all bills on a second reading shall be considered by the Senate in the same manner as if the Senate were in a committee of the whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered.

Mr. GRAYSON was added to the committee appointed the 13th of May, "to define the crimes and offences that shall be cognizable under the authority of the United States, and their punishment."

FRIDAY May 22.

A message from the House of Representatives informed the Senate that they had appointed Messrs Partridge and Floyd, a committee on their part, to lay before the President, after it shall have passed the formalities prescribed in the resolve of the 18th of May, the bill to regulate the time and manner of administering certain oaths.

The committee appointed to examine the afore-mentioned bill, reported, that they had performed the service; whereupon, the bill was signed by the Vice President, and was, by the committee thereunto appointed, laid before the President of the United States for his approbation.

MONDAY, May 25.

The Senate proceeded to consider the bill for laying a duty on goods, wares, and merchandises imported into the United States; and, after progress, adjourned.

The Senate to-day, for the first time, entered upon executive business, having received from the President of the United States a communication covering a report from the Secretary of War, on the negotiations of the Governor of the Western Territory with certain northern and northwestern Indians, and the treaties made in consequence thereof at Fort Harinar, on the 9th of January, 1789, which was read, as follows, and ordered to lie on the table.

That the several treaties of peace which have been made with the northern tribes of Indians, and those northwest of the Ohio, since the conclusion of the late war with Great Britain, are as follows, to wit:

1st. The treaty at Fort Stanwix, on the 22d day of October, 1784, between Oliver Wolcott, Richard Butler, and Arthur Lee, Commissioners Plenipotentiary from the United States, on the one part, and the sachems and warriors of the Six Nations on the other.

2d. The treaty entered into by the said Commissioners Plenipotentiary and the sachems and warriors of the Wyandot, Delaware, Chippawa, and Ottawa nations of Indians, at Fort McIntosh, the 21st day of January, 1785.

3d. The treaty at the mouth of the Great Miami, the 31st day of January, 1786, between commissioners from the United States, and the chiefs and warriors of the Shawanee nation.

SENATE.]

Proceedings.

[May, 1789.

That the treaties of Fort Stanwix and Fort McIntosh were entered on the journals of the United States, in Congress assembled, June 3d, 1785; and the treaty of the Miami on the 17th day of April, 1786.

That it may be proper to observe, that the Indians are greatly tenacious of their lands, and generally do not relinquish their right, excepting on the principle of a specific consideration expressly given for the purchase of the same.

That the practice of the late English colonies and Government, in purchasing the Indian claims, has firmly established the habit in this respect, so that it cannot be violated but with difficulty, and an expense greatly exceeding the value of the object.

That the treaties of Fort Stanwix and of Fort McIntosh do not state that the limits therein defined are by virtue of a purchase from the Indians.

That the said treaties have been opposed and complained of, will appear by the representation to Congress accompanying this report, marked No. 1.

That, in consequence of the said representation, Congress, on the 21st day of July, 1787, passed the following resolve:

“Resolved, That the Superintendent of Indian Affairs for the Northern Department inform the Five Nations, the Hurons, and other Indian nations, who joined in the representation made to Congress, dated the 18th day of December, 1786, that Congress, on the 18th of the present month, July, 1787, received their said representation, and have taken it into their serious consideration, and in due time will send them an answer.”

That, on the 5th of October following, Congress resolved:

“That a general treaty be held with the tribes of Indians within the limits of the United States, inhabiting the country northwest of the Ohio, and about Lake Erie, as soon after the 1st of April next as conveniently may be, and at such place, and at such particular time, as the Governor of the Western Territory shall appoint, for the purpose of knowing the causes of uneasiness among the said tribes, and hearing their complaints, of regulating trade, and amicably settling all affairs concerning lands and boundaries between them and the United States.

“That the Governor of the Western Territory hold the said treaty, agreeably to such instructions as shall be given him for that purpose.”

That, on the 12th of October, 1787, Congress resolved:

“That twenty thousand dollars be, and hereby are, appropriated for the purpose of Indian treaties, whenever the same shall hereafter be judged necessary by a majority of the United States in Congress assembled; and that the resolutions for holding a general treaty with the Indians, passed the 5th day of the present month, be, and they are hereby repealed.”

That, on the 22d of October, 1787, Congress resolved:

“That the Governor of the Western Territory be, and he is hereby empowered, to hold a general treaty with the Indian tribes the ensuing spring, if in his judgment the public good requires it, and that he be authorized to draw for such sums of money, appropriated by the resolve of Congress of the 12th

instant, as may be necessary to effect this object, not exceeding the sum of fourteen thousand dollars.”

That, on the 2d of July, 1788, Congress resolved:

“That the sum of twenty thousand dollars, in addition to the fourteen thousand dollars already appropriated, be appropriated for defraying the expenses of the treaties which have been ordered, or which may be ordered to be held in the present year, with the several Indian tribes in the northern department, and for extinguishing the Indian claims; the whole of the said twenty thousand dollars, together with six thousand dollars of the said fourteen thousand dollars, to be applied solely to the purpose of extinguishing Indian claims to the lands they have already ceded to the United States, by obtaining regular conveyances for the same, and for extending a purchase beyond the limits hitherto fixed by treaty: but that no part of the said sums be applied for any purpose other than those above mentioned.”

That the instructions to the Governor of the Western Territory, marked No. 2, will further show the sense of Congress on this subject.

That the treaties of Fort Harmar, on the 9th of January, 1789, with the sachems and warriors of the Six Nations, the Mohawks excepted, and with the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippawa, Pattiwatima, and Sac nations, inhabiting part of the country northwest of the Ohio, appear to have been negotiated by the Governor of the Western Territory, so as to unite the interests of the United States with the justice due the said Indian nations.

That the reservation, in the treaty with the Six Nations, of six miles square round the fort at Oswego, is within the territory of the State of New York, and ought to be so explained as to render it conformable to the Constitution of the United States.

That, if this explanation should be made, and the Senate of the United States should concur in their approbation of the said treaties, it might be proper that the same should be ratified and published, with a proclamation enjoining an observance thereof.

All which is humbly submitted to the President of the United States.

H. KNOX.

WAR OFFICE, May 23, 1789.

TUESDAY, May 26.

A message from the House of Representatives informed the Senate that they had appointed a committee, consisting of Messrs. PARTRIDGE, FLOYD, and THATCHER, to confer with any committee which may be appointed by the Senate, on the proper method of receiving into either House bills or messages from the President of the United States.

Said message was considered by the Senate, and Messrs. LEE and IZARD were appointed a committee on their part.

WEDNESDAY, May 27.

The Secretary went to the House of Representatives with a message, purporting the concurrence, on the part of the Senate, in the ap-

JUNE, 1789.]

Proceedings.

[SENATE.]

pointment of a committee upon the mode of receiving messages from the President of the United States, agreeably to the proposition of the House of Representatives made yesterday.

Adjourned to 11 o'clock to-morrow morning.

THURSDAY, May 28.

The Senate proceeded in the consideration of the bill for laying a duty on goods, wares, and merchandises imported into the United States; and, after debate, adjourned.

FRIDAY, May 29.

Proceeded to the consideration of the bill for laying a duty on goods, wares, and merchandises imported into the United States.

The committee, appointed the 13th instant, to confer with the committee of the House of Representatives, and report "what newspapers the members of Congress shall be furnished with at the public expense," further reported; which report was ordered to lie on the table.

A message from the House of Representatives brought to the Senate an engrossed bill, imposing duties on tonnage;

A resolve of the House of Representatives of the 28th, providing the members of the Senate and House of Representatives each with a set of the journals of the late Congress;

A resolve of the 28th, on the report of a joint committee appointed "to confer on the mode of furnishing the members of the Senate and House of Representatives with newspapers, journals," &c.;

Also, a resolve of this day, on the report of a joint committee appointed "to confer upon the mode of receiving, in the Senate and House of Representatives, bills, &c. from the President of the United States," desiring the concurrence of the Senate thereto.

The House *Resolved*, That until the public offices are established, and the respective officers are appointed, any returns of bills and resolutions, or other communications from the President, may be received by either House, under cover, directed to the President of the Senate, or Speaker of the House of Representatives, (as the case may be,) and transmitted by such person as the President may think proper.

The Senate concurred.

MONDAY, June 1.

The Secretary carried to the House of Representatives the concurrence of the Senate upon a resolve of the House of the 29th of May, on the mode of receiving communications from the President of the United States.

A message from the House of Representatives, by Mr. Beckley, their Clerk.

MR. PRESIDENT: I am directed to inform the Senate that the President has affixed his signature to a bill to regulate the time and manner of administering certain oaths, and has returned it to the House of Representatives, from whence it originated.

The Senate proceeded in the consideration of the bill for laying a duty on goods, wares, and merchandises imported into the United States; and, after debate, adjourned.

TUESDAY, June 2.

The resolve of the House of Representatives of the 28th ult. was considered as follows:

The House proceeded to consider the two reports, one made the 19th instant, the other the 26th instant, by the committee appointed to confer with a committee of the Senate, to consider and report what newspapers the members of Congress shall be furnished with at the public expense, and to receive proposals for printing the acts and other proceedings of Congress: and the first report, in the words following:

That, in their opinion, public economy requires that the expense heretofore incurred by the public, of supplying every member of Congress with all the newspapers printed at the seat of Congress, should be retrenched in future; but, as your committee consider the publication of newspapers to be highly beneficial in disseminating useful knowledge throughout the United States, and deserving of public encouragement, they recommend that each member of Congress be supplied, at the public expense, with one paper, leaving the choice of the same to each member; and that it be the duty of the Secretary of the Senate, and Clerk of the House of Representatives, to give the necessary directions to the different printers, to furnish each member with such paper as he shall choose."

Being again read and debated,

Resolved, That this House doth disagree to the said report.

The other report being again read, and amended to read as follows:

"That it would be proper that it should be left to the Secretary of the Senate and Clerk of the House of Representatives, to contract with such person as shall engage to execute the printing and binding business on the most reasonable terms, the paper being furnished by the said Secretary and Clerk, to such person, at the public expense; that such person as they shall contract with shall be obliged to render a state of his accounts quarterly; and that six hundred copies of the acts of Congress, and seven hundred copies of the journals, be printed, and distributed to the executive and judicial, and heads of departments of the Government of the United States, and the executive, legislative, and judicial of the several States."

Resolved, That this house doth agree to the said report.

And, on the question of concurrence on the first report, it was postponed.

The other report was read, and concurred with an amendment, viz: after the words "and distributed to the," insert "members of the legislative, to the."

The Senate proceeded in the consideration of the bill for laying a duty on goods, wares, and merchandises imported into the United States.

SENATE.]

Proceedings.

JUNE, 1789.

WEDNESDAY, June 3.

Proceeded in the consideration of the bill for laying a duty on goods, wares, and merchandises imported into the United States; and further postponed the second reading until to-morrow.

The Secretary informed the House of Representatives of the concurrence of the Senate, in a resolve of the 28th of May, upon the mode of printing the acts and journals of Congress, as agreed to yesterday; and requested the House of Representatives to send to the Senate "An act to regulate the time and manner of administering certain oaths."

A message from the House of Representatives brought to the Senate the act last mentioned, and informed the Senate of the concurrence of the House of Representatives in their amendment on a resolve of the 28th May, on the mode of printing the acts and journals of Congress.

Ordered, That Mr. LANGDON administer the oath to the Vice President; which was done accordingly.

And the Vice President administered the oath, according to law, to the following members: to MESSRS. LANGDON, WINGATE, STRONG, DALTON, JOHNSON, ELLSWORTH, PATERSON, MACLAY, MORRIS, READ, BASSETT, CARROLL, HENRY, LEE, GRAYSON, IZARD, FEW, GUNN.

The same oath was, by the Vice President, administered to the Secretary, together with the oath of office.

Ordered, That MESSRS. MORRIS, CARROLL, LANGDON, READ, and LEE, be a committee to consider and report the mode of communicating the acts of Congress to the several States in the Union, and the number necessary for that purpose.

THURSDAY, June 4.

On the report of the committee, appointed the 3d June, to consider the mode of communicating the acts of Congress to the several States in the Union,

Resolved, That, in ten days after the passing of every act of Congress, during the present session, or until some other regulation shall be adopted, twenty-two printed copies thereof, signed by the Secretary of the Senate and Clerk of the House of Representatives, and certified by them to be true copies of the original act, be lodged with the President of the United States; and that he be requested to cause to be transmitted two of the said copies, so attested as aforesaid, to each of the supreme Executives in the several States.

The Secretary carried the aforesaid resolve to the House of Representatives for their concurrence.

The Senate proceeded to the second reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States;

And the further consideration of the bill was postponed until to-morrow.

FRIDAY, June 5.

A message from the House of Representatives, by Mr. Beckley, their Clerk, who informed the Senate of the concurrence of the House on the resolution of the 4th June, upon the mode of communicating the acts of Congress to the Executives of the several States in the Union.

According to the order of the day, the Senate proceeded in the second reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States.

MONDAY, June 8.

PIERCE BUTLER, from South Carolina, appeared and took his seat.

The Vice President administered the oath to Mr. Butler.

The Senate concurred with the resolution of the House of Representatives, that every member of the present Congress, who is not yet furnished with a copy of the journals of the late Congress, shall, on application to the Keeper of the Records of the late Congress, be entitled to receive a complete set of such journals.

The Senate proceeded in the second reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States, and agreed that Mr. ELLSWORTH, Mr. MORRIS, Mr. LEE, Mr. BUTLER, and Mr. DALTON, be a committee to consider and report the expediency of adding a clause prohibiting the importation of goods from China, or India, in ships or vessels other than those belonging to the citizens of the United States.

TUESDAY, June 9.

Sundry petitions were presented.

The bill imposing duties on tonnage was read a first time, and Tuesday next was assigned for the second reading.

The Senate proceeded in the second reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States; and Wednesday next was assigned for the third reading of the bill.

WEDNESDAY, June 10.

Agreeably to the order of the day, proceeded to a third reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States.

THURSDAY, June 11.

Proceeded in the third reading of the bill for laying a duty on goods, wares, and merchandises imported into the United States.

And the question being taken upon the bill, it was concurred in with sundry amendments.

The Senate entered on executive business, and received from the President of the United States a communication in relation to the functions and prerogatives of consuls, vice consuls, &c., which was ordered to lie for consideration.

JUNE, 1789.]

Proceedings.

[SENATE.]

FRIDAY, June 12.

MR. LEE, in behalf of the committee thereto appointed, reported a bill to establish the judicial courts of the United States.

The Senate entered on executive business. They referred the President's message of the 25th ult. to a committee, consisting of Messrs. FEW, READ, and HENRY.

The consideration of the message of the 11th instant was postponed.

MONDAY, June 15.

Proceeded to the second reading of a bill imposing duties on tonnage; and, after debate, adjourned.

TUESDAY, June 16.

Proceeded in the second reading of the bill imposing duties on tonnage.

The Senate entered on executive business. A communication from the President informed them that Mr. JEFFERSON wished to return home, and he proposed WILLIAM SHORT, Esq. to take his place as minister to France. Laid on the table.

WEDNESDAY, June 17.

Agreeably to the order of the day, proceeded to the third reading of the bill imposing duties on tonnage, and concurred in the same, with sundry amendments.

Ordered, That a committee, to consist of Messrs. BUTLER, MORRIS, LANGDON, DALTON, and LEE, be appointed to arrange and bring forward a system for the regulation of the trade and intercourse between the United States and the territory of other Powers in North America and the West Indies, so as to place the same on a more beneficial and permanent footing.

The committee, appointed May the 9th, to view the rooms in the City Hall, and to confer with a committee of the House of Representatives appointed for that purpose, reported.

Ordered, That the report lie for consideration.

The Senate went into executive business. They examined into the fitness of Mr. SHORT to supply the place of Mr. JEFFERSON, but came to no conclusion.

THURSDAY, June 18.

The Senate went into executive business, and confirmed the appointment of Mr. SHORT to take charge of our affairs at the court of France, during the absence of the minister.

FRIDAY, June 19.

The committee, appointed May 9th, to view the rooms in the City Hall, and to concur with a committee of the House of Representatives appointed for that purpose, reported in part:

That the two rooms on the first floor, in the southwest angle of the said hall, are not necessary for the accommodation of Congress; and that the mayor of the city be notified thereof, that the said rooms may

be occupied by such persons as the corporation may employ to take charge of the building.

Read and accepted, and sent to the House of Representatives for concurrence.

MONDAY, June 22.

Proceeded to the second reading of the bill to establish the judicial courts of the United States; and, after progress, adjourned.

TUESDAY, June 23.

Resumed the consideration of the bill to establish the judicial courts of the United States; and, after progress, adjourned.

WEDNESDAY, June 24.

Proceeded in consideration of the bill to establish the judicial courts of the United States.

A message from the House of Representatives brought to the Senate the concurrence of the House upon the report of a committee, appointed May the 9th, to view the rooms in the City Hall; a bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs, which had passed the House of Representatives, and to which the concurrence of the Senate was desired.

THURSDAY, June 25.

Proceeded to consider a message from the House of Representatives on the amendments proposed by the Senate to a bill for laying a duty on goods, wares, and merchandises imported into the United States; and agreed to a part of the proposed amendments, and disagreed to others.

The Senate proceeded to the consideration of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs; which was read the first time, and ordered to lie for consideration.

Proceeded in the second reading of a bill to establish the judicial courts of the United States; and, after debate, adjourned.

FRIDAY, June 26.

Resumed the consideration of the bill to establish the judicial courts of the United States.

SATURDAY, June 27.

MR. MORRIS, in behalf of the committee appointed to confer with a committee of the House of Representatives upon the amendments proposed to a bill for laying a duty on goods, wares, and merchandises imported into the United States, and upon a bill imposing duties on tonnage, reported upon the respective bills; and the reports were ordered to lie for consideration.

Resumed the consideration of the bill to establish the judicial courts of the United States.

SENATE.]

Proceedings.

[JULY, 1789.]

MONDAY, June 29.

Resumed the consideration of the bill to establish the judicial courts of the United States.

The bill for laying a duty on goods, wares, and merchandises imported into the United States, was carried to the House of Representatives, with the amendments as agreed to.

TUESDAY, June 30.

The Senate resumed the consideration of the bill to establish the judicial courts of the United States; and, after debate, adjourned.

WEDNESDAY, July 1.

Resumed the consideration of the bill to establish the judicial courts of the United States.

THURSDAY, July 2.

The Senate resumed the consideration of the bill to establish the judicial courts of the United States.

FRIDAY, July 3.

Resumed the consideration of the bill to establish the judicial courts of the United States; and, after debate, adjourned.

MONDAY, July 6.

Read the second time the bill to establish the judicial courts of the United States, and assigned to-morrow for the third reading.

The bill to establish the Treasury Department was read a first time, and Monday next was assigned for a second reading.

The second reading of a bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs, was deferred to Thursday next.

A bill to establish an Executive Department, to be denominated the Department of War, was read a first time, and Friday next was assigned for a second reading.

A message from the House of Representatives informed the Senate that the President of the United States had affixed his signature to a bill for laying a duty on goods, wares, and merchandises imported into the United States, and had returned it to the House of Representatives; and that the House had appointed a committee on their part, to be joined by a committee on the part of the Senate, for the purpose of examining an enrolled bill imposing duties on tonnage, and to lay the same before the President of the United States for his approbation. He also communicated to the Senate a resolve of the House of Representatives, providing that there be prefixed to the publication of the acts of the present session of Congress a correct copy of the constitution of the United States.

The resolve of the House of Representatives, providing that a copy of the constitution of the United States be prefixed to the publication of

the acts of the present session of Congress, was read; whereupon,

Resolved, That the Senate do concur therewith.

TUESDAY, July 7.

According to the order of the day, proceeded to a third reading of the bill to establish the judicial courts of the United States.

WEDNESDAY, July 8.

The Senate resumed the consideration of the bill to establish the judicial courts of the United States.

THURSDAY, July 9.

The Senate resumed the consideration of the bill to establish the judicial courts of the United States.

FRIDAY, July 10.

The bill to establish the judicial courts of the United States underwent further discussion.

SATURDAY, July 11.

Resumed the consideration of the bill to establish the judicial courts of the United States, which was further discussed.

MONDAY, July 13.

Mr. BUTLER, in behalf of the committee appointed the 17th of June, to bring forward a system for the regulation of the trade and intercourse between the United States and the territory of other Powers in North America and the West Indies, so far as to place the same upon a more beneficial and permanent footing, reported; and the report was ordered to lie for consideration.

Resumed the third reading of "a bill to establish the judicial courts of the United States," and which was recommitted.

TUESDAY, July 14.

Proceeded to the second reading of a bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs; and, after debate, adjourned.

WEDNESDAY, July 15.

A message from the House of Representatives informed the Senate that they had passed a bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States; to which they requested the concurrence of the Senate.

The above bill was read a first time, and Friday next was assigned for a second reading.

Resumed the consideration of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs.

JULY, 1789.]

Proceedings.

[SENATE.]

THURSDAY, July 16.

Resumed the consideration of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs.

FRIDAY, July 17.

Resumed the consideration of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs; and agreed, line 1st, to expunge the words "Congress of the United States," and insert, "Senate and House of Representatives of the United States of America, in Congress assembled;" and assigned to-morrow for its third reading.

On motion, that, on the final question upon a bill or resolve, any member shall have a right to enter his protest or dissent on the journal, with reasons in support of such dissent, provided the same be offered within two days after the determination on such final question:

Passed in the negative.

The engrossed bill to establish the judicial courts of the United States was read; and, upon the question, "Shall the bill pass?" the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Few, Gunn, Henry, Johnson, Izard, Morris, Paterson, Read, and Strong.

Nays.—Messrs. Butler, Grayson, Langdon, Lee, Maclay, and Wingate.

So the bill passed; and the Secretary was directed to carry the same to the House of Representatives for concurrence.

SATURDAY, July 18.

Agreeably to the order of the day, proceeded to a third reading of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs, which was amended, and passed.

Assigned Monday next for the second reading of the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States.

MONDAY, July 20.

The Secretary carried to the House of Representatives, for their concurrence, a bill to establish the judicial courts of the United States; and,

A bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs; concurred in by the Senate, with amendments.

Agreeably to the order of the day, proceeded to the second reading of the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States;

And, after debate, it was committed to MESSRS. MORRIS, LANGDON, CARROLL, DALTON, and LEE, to report such additions and alterations as they may judge requisite.

A message from the House of Representatives informed the Senate that they had passed a bill for the establishment and support of light-houses, beacons, and buoys; and that they have concurred in the amendments proposed by the Senate to a bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs.

TUESDAY, July 21.

Resumed the second reading of a bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States; and assigned to-morrow for third reading.

A message from the House of Representatives brought up a bill to provide for the government of the territory northwest of the river Ohio.

The bill to provide for the government of the territory northwest of the river Ohio was read a first time, and Wednesday was assigned for a second reading.

The bill for the establishment and support of light-houses, beacons, and buoys was read a first time, and to-morrow was assigned for a second reading.

The bill to establish an Executive Department, to be denominated the Department of War, was read a second time, and the further consideration of it was postponed until to-morrow.

The bill to establish the Treasury Department was read a second time, and ordered to lie for consideration.

The Senate entered on executive business, and

Ordered, That the Secretary of Foreign Affairs attend the Senate to-morrow, and bring with him such papers as are requisite to give full information relative to the consular convention between France and the United States.

WEDNESDAY, July 22.

The Senate were to-day mostly engaged in executive business. The Secretary of Foreign Affairs attended, agreeably to order, and made the necessary explanations; and the following resolution was entered into:

Whereas, a convention referred this day to the Senate bears reference to a convention pending between the Most Christian King and the United States, previous to the adoption of our present Constitution,

Resolved, That the Secretary of Foreign Affairs, under the former Congress be requested to peruse the said convention, and to give his opinion how far he conceives the faith of the United States to be engaged, either by former agreed stipulations, or negotiations entered into by our Minister at the

SENATE.]

Proceedings.

[JULY, 1789.]

court of Versailles, to ratify, in its present sense or form, the convention now referred to the Senate.

THURSDAY, July 23.

The bill for the establishment and support of light-houses, beacons, and buoys, was read a second time, and committed to Messrs. MORRIS, LANGDON, and DALTON.

On the question, whether the clauses in the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, providing, "that, oaths shall be administered to the master, or other persons having the charge or command of any ship or vessel," shall be expunged, and the words, "and the owner's and master's declaration, with penalties for false entry," be substituted? Passed in the negative.

FRIDAY, July 24.

The committee appointed on the bill for the establishment and support of light-houses, beacons, and buoys, reported amendments, which were read and ordered to be printed.

The committees requested a recess, to give opportunity to perfect their reports.

SATURDAY, July 25.

RUFUS KING, from New York, appeared and took his seat.

The second reading of the bill to provide for the government of the territory northwest of the river Ohio was further postponed to Monday next.

MONDAY, July 27.

PHILIP SCHUYLER, from New York, appeared, and took his seat.

A message from the House of Representatives informed the Senate that they had passed a bill for settling the accounts between the United States and individual States, which was sent for their concurrence; and informed the Senate that the President of the United States had affixed his signature to a bill for the establishment of an Executive Department, to be denominated the Department of Foreign Affairs, and had returned the same to the House of Representatives.

The first-mentioned bill was read a first time, and July the 29th was assigned for a second reading.

Proceeded to the third reading of a bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States; and

Resolved, That the Senate do concur therein, with sundry amendments.

The Senate entered on executive business. The Secretary of Foreign Affairs reported his opinion upon the consular convention between France and the United States, as follows:

"The Secretary of the United States for the Department of Foreign Affairs, under the former Congress, in pursuance of the resolution of the 22d of July, 1789, reports:

"That he has compared the two conventions of 1784 and 1788.

"That the copies of them, received from Mr. Jefferson, and now before the Senate, are so printed, and their variations so clearly marked, as that he cannot contrast them in a manner better calculated for an easy and accurate comparison.

"That, in his opinion, there exist, in the convention of 1788, no variations from the original scheme sent to Doctor Franklin in 1782, nor from the convention of 1784, but such as render it less ineligible than either of the other two.

"That, although he apprehends that this convention will prove more inconvenient than beneficial to the United States, yet he thinks that the circumstances under which it was formed render its being ratified by them indispensable.

"The circumstances alluded to are these:

"The original scheme of 1782, however exceptionable, was framed and agreed to by Congress.

"The convention of 1784 was modelled by that scheme, but in certain instances deviated from it; but both of them were to be perpetual in their duration.

"On account of those deviations, Congress refused to ratify it, but promised to ratify one corresponding with the scheme, provided its duration was limited to eight or ten years; but they afterwards extended it to twelve.

"By an instruction to Mr. Jefferson of 3d October, 1786, he was, among other things, directed to propose to the King, 'That the said convention be so amended as perfectly to correspond with the scheme, in every part, where a deviation from the same is not permitted by the said act (of 1782); and, further, that he represent to His Majesty, the desire of Congress to make the said convention probationary, by adding a clause for limiting its duration to eight or ten years; that he assure His Majesty of the determination of Congress to observe, on all occasions, the highest respect for candor and good faith, in all their proceedings; and that on receiving the convention, so amended, and with such a clause, they will immediately ratify it.'

"In the letter which accompanied these instructions is the following paragraph:

"The original scheme of the convention is far from being unexceptionable; but a former Congress having agreed to it, it would be improper now to recede; and, therefore, Congress are content to ratify a convention made conformable to that scheme, and to their act of the 25th January, 1782, provided a clause limiting its duration be added.'

"On the 27th July, 1787, Congress gave to Mr. Jefferson a commission, in general terms, to negotiate and conclude, with His Most Christian Majesty a convention for regulating the privileges, &c. of their respective consuls.

"In one of the letters then written to him is this paragraph:

"Congress confide fully in your talents and discretion, and they will ratify any convention that is not liable to more objections than the one already, in part, concluded: provided that an article, limit-

AUGUST, 1789.]

Proceedings.

[SENATE.]

ing its duration to a term not exceeding twelve years, be inserted.'

"As the convention in question is free from several objections to which the one of 1784 was liable, and is, in every respect, preferable to it, and as it contains a clause limiting its duration to twelve years, it seems to follow, as of necessary consequence, that the United States ought to ratify it.

"All which is submitted to the wisdom of the Senate.
"JOHN JAY."

TUESDAY, July 28.

Mr. JOHNSON, in behalf of the committee appointed the 13th of May, reported a bill for the punishment of certain crimes against the United States; which was read a first time, and Monday next was assigned for a second reading.

The Secretary carried to the House of Representatives the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, or merchandises imported into the United States; concurred in, with amendments.

On motion, the Senators from the State of New York proceeded to draw lots for their classes, in conformity to the resolve of the 14th of May; and two lots, No. 3, and a blank, being, by the Secretary, rolled up and put into the box, Mr. SCHUYLER drew blank; and Mr. KING having drawn No. 3, his seat shall accordingly be vacated in the Senate at the expiration of the sixth year.

The Secretary proceeded to put two other lots into the box, marked Nos. 1 and 2; and Mr. SCHUYLER having drawn lot No. 1, his seat shall accordingly be vacated in the Senate at the expiration of the second year.

WEDNESDAY, July 29.

Resumed the second reading of the bill for the establishment and support of light-houses, beacons, and buoys.

Resumed the second reading of the bill to establish the Treasury Department; and postponed the further consideration thereof until to-morrow.

Proceeded to the second reading of the bill for settling the accounts between the United States and individual States; and assigned to-morrow for a third reading.

The Senate entered on executive business; and having duly considered the convention between His Most Christian Majesty and the United States of America, for the purpose of defining and establishing the functions and privileges of their respective consuls and vice-consuls, transmitted to the Senate by the President of the United States, through the Secretary for Foreign Affairs,

Resolved, unanimously, That the Senate do consent to the said convention, and advise the President of the United States to ratify the same.

THURSDAY, July 30.

Proceeded to a third reading of the "bill for settling the accounts between the United States

and individual States;" and resolved, that the Senate do concur therein; and the Secretary notified the House of Representatives accordingly.

Proceeded to the consideration of the bill for the establishment and support of light-houses, beacons, and buoys.

Proceeded to the consideration of the bill to establish the Treasury Department; and assigned to-morrow for a third reading.

On motion, that the sense of the Senate should be taken on the following resolve, to wit:

Resolved, That a clause passed, or amendment made, in committee, shall not be revised in the same committee, but may be so done in the Senate; and no amendment or clause agreed to in the Senate shall be reconsidered until the next reading of the bill, except at the third reading of a bill, when, by the consent of the Senate, it may be amended.

Passed in the negative.

FRIDAY, July 31.

Proceeded to a third reading of the bill to establish the Treasury Department, which was passed after being amended; and the Secretary carried the bill to the House of Representatives, concurred in with the amendments; also, the concurrence of the Senate in the resolve of the 31st July, and the appointment of Mr. WINGATE as a standing committee, jointly with a committee of the House, to examine and present the enrolled bills that may pass the Senate and House of Representatives from time to time.

Proceeded to the second reading of the bill to provide for the government of the territory northwest of the river Ohio; and postponed the consideration thereof to Monday next.

MONDAY, August 3.

Proceeded to the second reading of the bill to provide for the government of the territory northwest of the river Ohio; and assigned to-morrow for a third reading.

The bill for the establishment and support of light-houses, beacons, and buoys, concurred in with amendments, was carried to the House of Representatives by the Secretary.

The bill to establish an Executive Department, to be denominated the Department of War, was considered, and a third reading postponed until to-morrow.

The bill for the punishment of certain crimes against the United States was read a second time; and the further consideration thereof was postponed.

The Senate entered on executive business. The President communicated to them a list of about one hundred appointments as collectors, naval officers, and surveyors. The Senate advised and consented to about one-half the list; the rest lay till to-morrow.

SENATE.]

Proceedings.

[AUGUST, 1789.]

TUESDAY, August 4.

Proceeded to a third reading of the bill to establish an Executive Department, to be denominated the Department of War; which the Senate concurred in, with amendments.

Proceeded to the third reading of the bill to provide for the government of the territory northwest of the river Ohio; which passed.

A message from the House of Representatives brought up a bill for making compensation to the President and Vice President of the United States, and desired the concurrence of the Senate therein;

Informed the Senate that the House had agreed to the amendments to the bill for the establishment and support of light-houses, beacons, and buoys;

Brought up the acceptance, by the House of Representatives, of a report of a joint committee upon the mode of presenting addresses, the enrolment of bills, &c.;

Together with the appointment of Messrs. WADSWORTH, CARROLL, and HARTLEY, a committee, to join with a committee of the Senate to be appointed for the purpose, "to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business, now before Congress, necessary to be finished before the adjournment, and such as may be conveniently postponed to the next session; and, also, to consider and report such matters, now before Congress, but which it will be necessary should be considered and determined by Congress before an adjournment."

The Senate again entered on executive business, and advised and confirmed all the remainder of the list of appointments presented yesterday, one excepted.

WEDNESDAY, August 5.

Proceeded to a first reading of a bill for allowing a compensation to the President and Vice President of the United States, and assigned to-morrow for the second reading.

Appointed Messrs. STRONG, ELLSWORTH, and CARROLL, a committee, jointly with the committee of the House of Representatives, to that purpose appointed, to consider what business is necessary to be acted upon prior to an adjournment, and to report a proper time at which an adjournment shall take place, agreeably to a proposition from the House of Representatives of the 4th of August.

The resolve of the House of Representatives, on the report of a joint committee appointed the 8th of May, upon the enrolment and presentation of the acts of Congress, &c. was read, and ordered to be printed for the consideration of the Senate.

A message from the House of Representatives brought up the concurrence of the House on the amendments proposed by the Senate to the bill to establish an Executive Department, to

be denominated the Department of War; and their concurrence on the proposed amendments to the bill to provide for the government of the territory northwest of the river Ohio.

Mr. BUTLER, in behalf of the committee to whom it was referred "to arrange and bring forward a system to regulate the trade and intercourse between the United States and the territory of other Powers in North America and the West Indies," reported:

That it will be expedient to pass a law for imposing an increased duty of tonnage, for a limited time, on all foreign ships and other vessels that shall load in the United States, with the produce of the same, to any port or place in America whereto the vessels of the United States are not permitted to carry their own produce; but such a law being of the nature of a revenue law, your committee conceive that the originating a bill for that purpose is, by the constitution, exclusively placed in the House of Representatives.

Your committee beg leave further to report, as their opinion, that it will be expedient to direct a bill to be brought in for imposing similar restraints upon the trade of the European settlements in America with the United States, that are imposed on the trade of the United States with those settlements.

Resolved, That the first clause of this report be accepted, and that the remainder of the report be recommitted; and that it be an instruction to the committee, in case it shall be their opinion that a legislative provision ought to be made on the subject of the commitment, to report a bill for that purpose; and that Messrs. ELLSWORTH, KING, and READ be added to the committee.

THURSDAY, August 6.

The Senate proceeded to a second reading of the bill for allowing a compensation to the President and Vice President of the United States, and committed it to Messrs. MORRIS, READ, ELMER, SCHUYLER, LANGDON, CARROLL, ELLSWORTH, STRONG, FEW, IZARD, and LEE.

The following joint rules, established between the two Houses, were received from the House of Representatives:

"That while bills are on their passage; between the two Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House, respectively.

"After a bill shall have passed both Houses, it shall be duly enrolled on parchment, by the Clerk of the House of Representatives, or the Secretary of the Senate, as the bill may have originated in the one or the other House, before it shall be presented to the President of the United States.

"When bills are enrolled, they shall be examined by a joint committee of one from the Senate, and two from the House of Representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrolment with the engrossed bills, as passed in the two Houses, and, correcting any errors that may be discovered in the enrolled bills,

AUGUST, 1789.]

Proceedings.

[SENATE.]

make their report forthwith to the respective Houses.

"After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the House of Representatives, and then by the President of the Senate.

"After a bill shall have thus been signed in each House, it shall be presented, by the said committee, to the President of the United States for his approbation; it being first endorsed on the back of the roll, certifying in which House the same originated; which endorsement shall be signed by the Secretary or Clerk, as the case may be, of the House in which the same did originate, and shall be entered on the journal of each House. The said committee shall report the day of presentation to the President, which time shall also be carefully entered on the journal of each House.

"All orders, resolutions, and votes, which are to be presented to the President of the United States for his approbation, shall also, in the same manner, be previously enrolled, examined, and signed, and shall be presented in the same manner, and by the same committee, as is provided in case of bills.

"That, when the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience chamber by the President of the Senate, in the presence of the Speaker, and both Houses."

Read, and *Resolved*, That the Senate do concur in the report.

A message from the House of Representatives brought up a bill for registering and clearing vessels, regulating the coasting trade, and for other purposes; which was read, and postponed.

FRIDAY, August 7.

The Senate, in the absence of the Vice President, proceeded to elect a President *pro tempore*; and the votes being collected and counted, the Honorable JOHN LANGDON was unanimously appointed.

A message from the President of the United States, by General Knox:

Gentlemen of the Senate:

The business which has hitherto been under the consideration of Congress has been of so much importance, that I was unwilling to draw their attention from it to any other subject. But the disputes which exist between some of the United States and several powerful tribes of Indians, within the limits of the Union, and the hostilities which have, in several instances, been committed on the frontiers, seem to require the immediate interposition of the General Government.

I have, therefore, directed the several statements and papers which have been submitted to me on this subject, by General Knox, to be laid before you for your information.

While the measures of Government ought to be calculated to protect its citizens from all injury and violence, a due regard should be extended to those

Indian tribes whose happiness, in the course of events, so materially depends on the national justice and humanity of the United States.

If it should be the judgment of Congress that it would be most expedient to terminate all differences in the southern district, and to lay the foundation for future confidence, by an amicable treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion. How far such a measure, unassisted by posts, would be competent to the establishment and preservation of peace and tranquility on the frontiers, is also a matter which merits your serious consideration.

Along with this object, I am induced to suggest another, with the national importance and necessity of which I am deeply impressed—I mean some uniform and effective system for the militia of the United States. It is unnecessary to offer arguments in recommendation of a measure, on which the honor, safety, and well-being of our country so evidently and so essentially depend; but it may not be amiss to observe, that I am particularly anxious it should receive as early attention as circumstances will admit, because it is now in our power to avail ourselves of the military knowledge disseminated throughout the several States, by means of the many well-instructed officers and soldiers of the late army; a resource which is daily diminishing by death and other causes. To suffer this peculiar advantage to pass away unimproved, would be to neglect an opportunity which will never again occur, unless, unfortunately, we should again be involved in a long and arduous war.

GEO. WASHINGTON.

NEW YORK, August 7, 1789.

The above message was ordered to lie for consideration.

Mr. MORRIS, in behalf of the committee on the bill for allowing a compensation to the President and Vice President of the United States, reported an amendment, to wit:

To expunge, in the provision for the Vice President, "five thousand dollars," and insert "six thousand dollars."

On motion to reduce the provision for the President of the United States, from "twenty-five thousand" to "twenty thousand dollars:"

Passed in the negative.

On motion to make the provision for the Vice President eight thousand dollars, instead of five thousand dollars:

Passed in the negative.

And, on motion, the further consideration of this clause of the bill was postponed.

The concurrence of the Senate upon the resolve of the House on the mode of enrolment, and the presentation of bills, &c. was carried to the House of Representatives.

The Senate entered on executive business. The following messages from the President were laid before them:

Gentlemen of the Senate:

My nomination of Benjamin Fishbourn for the place of naval officer of the port of Savannah not

SENATE.]

Proceedings.

[AUGUST, 1789.]

having met with your concurrence, I now nominate Lachlan McIntosh for that office.

Whatever may have been the reasons which induced your dissent, I am persuaded they were such as you deemed sufficient. Permit me to submit to your consideration whether, on occasions where the propriety of nominations appear questionable to you, it would not be expedient to communicate that circumstance to me, and thereby avail yourselves of the information which led me to make them, and which I would with pleasure lay before you. Probably my reasons for nominating Mr. Fishbourn may tend to show that such a mode of proceeding, in such cases, might be useful. I will, therefore, detail them.

First. While Colonel Fishbourn was an officer, in actual service, and chiefly under my own eye, his conduct appeared to me irreproachable; nor did I ever hear any thing injurious to his reputation as an officer or a gentleman. At the storming of Stony Point, his behavior was represented to have been active and brave, and he was charged by his General to bring the account of that success to the head quarters of the army.

Secondly. Since his residence in Georgia, he has been repeatedly elected to the Assembly as a representative of the county of Chatham, in which the port of Savannah is situated, and sometimes of the counties of Glynn and Camden; he has been chosen a member of the executive council of the State, and has lately been president of the same; he has been elected by the officers of the militia, in the county of Chatham, lieutenant colonel of the militia in that district; and, on a very recent occasion, to wit, in the month of May last, he has been appointed by the council (on the suspension of the late collector) to an office in the port of Savannah, nearly similar to that for which I nominated him; which office he actually holds at this time. To these reasons for nominating Mr. Fishbourn, I might add that I received private letters of recommendation, and oral testimonials in his favor, from some of the most respectable characters in that State; but as they were secondary considerations with me, I do not think it necessary to communicate them to you.

It appeared, therefore, to me, that Mr. Fishbourn must have enjoyed the *confidence* of the militia officers, in order to have been elected to a military rank; the *confidence* of the freemen, to have been elected to the Assembly; the *confidence* of the Assembly, to have been selected for the council; and the *confidence* of the council, to have been appointed collector of the port of Savannah.

GEO. WASHINGTON.

New York, August 6, 1789.

Gentlemen of the Senate:

By the act for settling the accounts between the United States and individual States, a person is to be appointed to fill the vacant seat at the Board of Commissioners for settling the accounts between the United States and individual States: I therefore nominate John Kean, of the State of South Carolina, to fill the vacant seat at the said Board of Commissioners.

GEO. WASHINGTON.

New York, August 6, 1789.

Proceeded to consider the nominations of collectors, naval officers, and surveyors, contained

in the messages from the President of the United States of the 3d and 6th August; and the Senate did advise and consent to the appointment of the following persons, to wit:

For the State of South Carolina.—Beaufort, Andrew Agnew, collector.

For the State of Georgia.—Savannah, Lachlan McIntosh, naval officer.

Proceeded to consider the nomination of John Kean to fill the vacant seat at the Board of Commissioners for settling the accounts between the United States and individual States; and the Senate did advise and consent to his appointment. And the Secretary, according to order, laid a certified copy of the proceedings before the President of the United States.

MONDAY, August 10.

Mr. STRONG, on behalf of the joint committee appointed the 5th of August to consider what business is necessary to be acted upon prior to an adjournment, and to report a proper time at which an adjournment shall take place, reported; and the report was ordered to lie for consideration.

A message from the House of Representatives brought up a bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; and requested the concurrence of the Senate therein.

A message from the President of the United States, by General Knox:

Gentlemen of the Senate:

I have directed a statement of the troops in the service of the United States to be laid before you for your information.

These troops were raised by virtue of the resolves of Congress of the 20th October, 1786, and the 3d of October, 1787, in order to protect the frontiers from the depredations of the hostile Indians; to prevent all intrusions on the public lands; and to facilitate the surveying and selling of the same, for the purpose of reducing the public debt.

As these important objects continue to require the aid of the troops, it is necessary that the establishment thereof should, in all respects, be conformed by law to the constitution of the United States.

GEO. WASHINGTON.

New York, August 10, 1789.

The Senate proceeded to the second reading of a bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes.

Ordered, That it be committed to Messrs. MORRIS, DALTON, LANGDON, BUTLER, and KING.

The Senate entered on executive business.

On motion to commit the message from the President of the United States relative to the nomination of Mr. Fishbourn: It was postponed until a committee, appointed on the 6th of August to wait on the President of the United States, should report.

AUGUST, 1789.]

Proceedings.

[SENATE.]

TUESDAY, August 11.

Proceeded to the first reading of the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; and assigned to-morrow for the second reading.

WEDNESDAY, August 12.

The Senate proceeded to the consideration of the bill for the punishment of certain crimes against the United States; and postponed the further consideration thereof until to-morrow.

Proceeded to a second reading of the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; the further consideration of which was postponed.

The Senate then entered on executive business. The committee, to whom was referred the message of the President of the 25th of May, with the Indian treaties and papers accompanying it, reported.

The consideration of the report was postponed until the 26th instant.

THURSDAY, August 13.

Proceeded to the consideration of the bill for the punishment of certain crimes against the United States.

Ordered, That Monday next be assigned for a third reading.

A message from the House of Representatives brought up a bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same; together with the papers referred to in the President's message of the 7th of August.

The bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, was read a first time.

Ordered, That to-morrow be assigned for a second reading.

FRIDAY, August 14.

Proceeded to the consideration of the bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same.

Ordered, That the bill be committed to MESSRS. FEW, ELLSWORTH, KING, LEE, and BUTLER.

MONDAY, August 17.

Mr. MORRIS, on behalf of the committee to whom it was referred, reported sundry amendments to the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes.

Ordered, That the further consideration thereof be postponed.

The committee appointed to take into consideration the bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, reported, that it be

Resolved, That there be allowed and paid to a Superintendent of Indian Affairs in the southern department, who may be nominated by the President, and appointed by and with the advice and consent of the Senate, the sum of _____ per day, including his expenses for the time he may be employed in attending a treaty, proposed to be held by the commissioners of the United States and the Creek Indians, at the Rock-Landing, in the State of Georgia, on the 15th day of September next.

"That, in case the proposed treaty should fail in the desired object, of establishing peace between the citizens of the United States and the Creek Indians, Congress will make such grants of money, and pursue such other measures, as will be necessary for the protection and safety of the inhabitants of the southern frontiers, and best secure the peace of the United States." And,

On motion to accept the report, it passed in the negative.

On motion that it be

Resolved, That the President of the United States be requested to nominate a fit person for Superintendent of Indian Affairs in the southern department, in order that he may be sent forward, as soon as may be, to act with the Commissioners of Indian Affairs in the southern department, appointed pursuant to a resolution of Congress passed on the _____ day of _____, and aid them in carrying into effect a treaty that is proposed to be held with the Creek nation on the 15th day of September next, in the State of Georgia, at the Rock-Landing;

That the sum of _____ dollars be delivered to the said superintendent, to be appropriated for the immediate purpose of the said treaty; for which sum he shall be accountable;

That the President of the United States be requested to instruct the said superintendent and commissioners to hear, and fully investigate, all the complaints and grievances of the said Creek Indians, and to use all the means in their power to quiet their minds, and to do them ample justice, agreeably to the aforesaid resolution of Congress and instructions heretofore given for that purpose: That, if the said Indians should prove refractory, or refuse to treat and establish peace on just and reasonable terms, then, and in that case, the said superintendent and commissioners be directed to make immediate report thereof to the President of the United States, and Congress will make such grants of money, and pursue such other measures, as will be necessary for the safety and protection of the inhabitants of the southern frontiers, and best secure the peace of the United States."

It passed in the negative.

On motion that it be

Resolved, That the President of the United States be authorized and empowered, and he is hereby authorized and empowered, should the Creek Indians decline to make peace with the State of Georgia, to take effectual measures for covering the

SENATE.]

Proceedings.

[AUGUST, 1789.]

State of Georgia from the incursions of the Indians, either by ordering some of the troops now at Fort Harmar to march to the frontiers of Georgia, or by embodying such a number of the militia as he shall think sufficient to ensure to the citizens of Georgia protection, and the cultivation of their lands in peace and security; and that he be empowered to draw on the Treasury for defraying the expenses of the same.

And on motion for the previous question, to wit:

"Shall the main question be now put?"

It passed in the negative.

TUESDAY, August 18.

The Senate proceeded in the second reading of the bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same.

Ordered, That the rules of the House be so far dispensed with, as that the said bill shall have a third reading at this time. It was read accordingly.

The Senate entered on executive business.

The following communication was read from the President:

Gentlemen of the Senate:

In conformity to the law re-establishing the Western Territory, I nominate Arthur St. Clair, Governor; Winthrop Sargent, Secretary; Samuel Holden Parsons, John Cleves Symmes, and William Barton, judges of the court. I also nominate Ebenezer Tucker, surveyor of Little Egg Harbor, in the State of New Jersey.

GEO. WASHINGTON.

NEW YORK, August 18, 1789.

The consideration thereof was postponed until to-morrow.

WEDNESDAY, August 19.

A message from the House of Representatives informed the Senate that the House had concurred in their amendments proposed to the bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same.

THURSDAY, August 20.

The Senate proceeded to the consideration of the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes; and, after progress,

Ordered, That the further consideration thereof be postponed.

The Senate entered on executive business. The following communication was read from the President:

Gentlemen of the Senate:

In consequence of an act providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, I nominate Benjamin Lincoln as one of three commissioners whom

I shall propose to be employed to negotiate a treaty with the Southern Indians. My reason for nominating him at this early moment is, that it will not be possible for the public to avail itself of his services on this occasion, unless his appointment can be forwarded to him by the mail which will leave this place to-morrow morning.

GEO. WASHINGTON.

NEW YORK, August 20, 1789.

Proceeded to consider the nominations of Governor, &c. of the Western Territory, as contained in the message from the President of the United States of the 18th August and the Senate did advise and consent to the appointment of

Arthur St. Clair, to be Governor of the Western Territory;

Of Winthrop Sargent, to be Secretary; and

Of Samuel Holden Parsons, John Cleves Symmes, and William Barton, to be Judges.

Proceeded to consider the nomination of Ebenezer Tucker, to be Surveyor of Little Egg Harbor, in the State of New Jersey and of

William Gibb, to be Collector of Folly Landing, in the State of Virginia. And the Senate did advise and consent to their being appointed to office, agreeably to the nominations respectively.

Also, proceeded to consider the nomination of Benjamin Lincoln, as one of the three commissioners to be employed to negotiate a treaty with the Southern Indians.

And the Senate did advise and consent to his appointment accordingly.

Mr. IZARD, in behalf of the committee appointed the 6th of August, "to wait on the President of the United States, and confer with him on the mode of communication," &c. reported:

The consideration of which was postponed until to-morrow.

FRIDAY, August 21.

The Senate proceeded to the consideration of the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes.

Ordered, That the bill be read the third time to-morrow.

The Senate entered on executive business. They proceeded to consider the report made by Mr. IZARD, yesterday, as follows:

The committee appointed to wait on the President of the United States, and confer with him on the mode of communication proper to be pursued between him and the Senate, in the formation of treaties, and making appointments to offices, reported:

Which report was agreed to. Whereupon,

Resolved, That when nominations shall be made in writing by the President of the United States to the Senate, a future day shall be assigned, unless the Senate unanimously direct otherwise, for taking them into consideration; that when the President of the United States shall meet the Senate in the Senate

AUGUST, 1789.]

Proceedings.

[SENATE.]

Chamber, the President of the Senate shall have a chair on the floor, he considered as at the head of the Senate, and his chair shall be assigned to the President of the United States; that when the Senate shall be convened by the President of the United States to any other place, the President of the Senate and Senators shall attend at the place appointed. The Secretary of the Senate shall also attend to take the minutes of the Senate.

That all questions shall be put by the President of the Senate, either in the presence or absence of the President of the United States; and the Senators shall signify their assent or dissent by answering, *viva voce*, aye or no.

Another message was received from the President, viz:

Gentlemen of the Senate:

In addition to the nomination which I made yesterday, of Benjamin Lincoln, as one of three commissioners to be employed to negotiate a treaty with the Southern Indians, I now nominate Cyrus Griffin and David Humphreys, as the two other commissioners to be employed to negotiate the before-mentioned treaty.

GEO. WASHINGTON.

NEW YORK, August 21, 1789.

Proceeded to the consideration of the last rejected nominations, and the Senate did advise and consent to the appointments accordingly.

Also, the following message:

Gentlemen of the Senate:

The President of the United States will meet the Senate, in the Senate Chamber, at half-past eleven o'clock to-morrow, to advise with them on the terms of the treaty to be negotiated with the Southern Indians.

GEO. WASHINGTON.

NEW YORK, August 21, 1789.

SATURDAY, August 22.

The memorial of John Cox, and others, citizens of the State of New Jersey and of the State of Pennsylvania, praying that the future State of Government might be established on the banks of the Delaware, and proposing a cession of a tract of land of ten miles square, was then read, and, together with a draft of the said tract, was laid on the table for consideration.

Proceeded to the third reading of the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes; and, after progress,

The Senate again entered on executive business.

The President of the United States came into the Senate Chamber, attended by General Knox, and laid before the Senate the following statement of facts, with the questions thereto annexed, for their advice and consent:

"To conciliate the powerful tribes of Indians in the southern district, amounting probably to fourteen thousand fighting men, and to attach them firmly to the United States, may be regarded as highly worthy of the serious attention of Government.

"The measure includes not only peace and security to the whole southern frontier, but is calculated to form a barrier against the colonies of a European Power, which, in the mutations of policy, may one day become the enemy of the United States. The fate of the Southern States, therefore, or the neighboring colonies, may principally depend on the present measures of the Union towards the Southern Indians.

"By the papers which have been laid before the Senate, it will appear that, in the latter end of the year 1785, and the beginning of 1786, treaties were formed by the United States with the Cherokees, the Chickasaws, and Choctaws. The report of the commissioners will show the reasons why a treaty was not formed at the same time with the Creeks.

"It will also appear by the papers, that the States of North Carolina and Georgia protested against said treaties as infringing their legislative rights, and being contrary to the confederation. It will further appear, by the said papers, that the treaty with the Cherokees has been entirely violated by the disorderly white people on the frontiers of North Carolina.

"The opinion of the late Congress respecting the said violation will sufficiently appear by the proclamation which they caused to be issued on the 1st of September, 1788.

"By the public newspapers, it appears, that on the 16th of June last, a truce was concluded with the Cherokees, by Mr. John Steele, on behalf of the State of North Carolina; in which it was stipulated that a treaty should be held, as soon as possible, and that in the mean time, all hostilities should cease on either side.

"As the Cherokees reside principally within the territory claimed by North Carolina, and as that State is not a member of the present Union, it may be doubted whether any efficient measures in favor of the Cherokees could be immediately adopted by the General Government.

"The commissioners for negotiating with the Southern Indians may be instructed to transmit a message to the Cherokees, stating to them, as far as may be proper, the difficulties arising from the local claims of North Carolina, and to assure them that the United States are not unmindful of the treaty at Hopewell; and as soon as the difficulties which are at present opposed to the measures shall be removed, the Government will do full justice to the Cherokees.

"The distance of the Choctaws and Chickasaws from the frontier settlements seems to have prevented those tribes from being involved in similar difficulties with the Cherokees.

"The commissioners may be instructed to transmit messages to the said tribes, containing assurances of the continuance of the friendship of the United States, and that measures will soon be taken for extending a trade to them agreeably to the treaties of Hopewell. The commissioners may also be directed to report

SENATE.]

Proceedings.

[AUGUST, 1789.]

a plan for the execution of the said treaties respecting trade.

"But the case of the Creek nation is of the highest importance, and requires an immediate decision. The cause of the hostilities between Georgia and the Creeks is stated to be a difference in judgment concerning three treaties made between the said parties, to wit: at Augusta, in 1783, at Galphinton, in 1785, and at Shoulderbone, in 1786. The State of Georgia asserts, and the Creeks deny, the validity of the said treaties.

"Hence arises the indispensable necessity of having all the circumstances respecting the said treaties critically investigated by commissioners of the United States, so that the further measures of Government may be formed on a full knowledge of the case.

"In order that the investigation may be conducted with the highest impartiality, it will be proper, in addition to the evidence of the documents in the public possession, that Georgia should be represented at this part of the proposed treaty with the Creek nation.

"It is, however, to be observed, in any issue of the inquiry, that it would be highly embarrassing to Georgia to relinquish that part of the lands stated to have been ceded by the Creeks, lying between the Ogeeche and Oconee rivers; that State having surveyed and divided the same among certain descriptions of its citizens, who settled and planted thereon until dispossessed by the Indians.

"In case, therefore, the issue of the investigation should be unfavorable to the claims of Georgia, the commissioners should be instructed to use their best endeavors to negotiate with the Creeks for a solemn conveyance of the said lands to Georgia.

"By the report of the commissioners who were appointed under certain acts of the late Congress, by South Carolina and Georgia, it appears that they have agreed to meet the Creeks on the 15th of September ensuing. As it is with great difficulty the Indians are collected together at certain seasons of the year, it is important that the above occasion should be embraced, if possible, on the part of the present Government, to form a treaty with the Creeks. As the proposed treaty is of great importance to the future tranquillity of the State of Georgia, as well as of the United States, it has been thought proper that it should be conducted on the part of the General Government by commissioners whose local situations may free them from the imputation of prejudice on this subject.

"As it is necessary that certain principles should be fixed, previously to forming instructions for the commissioners, the following questions, arising out of the foregoing communications, are stated by the President of the United States, and the advice of Senate requested thereon:

"1st. In the present state of affairs between North Carolina and the United States, will it

be proper to take any other measures for redressing the injuries of the Cherokees than the one herein suggested?

"2d. Shall the commissioners be instructed to pursue any other measures respecting the Chickasaws and Choctaws than those herein suggested?

"3d. If the commissioners shall adjudge that the Creek nation was fully represented at the three treaties with Georgia, and that the cessions of land were obtained with the full understanding and free consent of the acknowledged proprietors, and that the said treaties ought to be considered as just and equitable: in this case, shall the commissioners be instructed to insist on a formal renewal and confirmation thereof? and, in case of a refusal, shall they be instructed to inform the Creeks that the arms of the Union shall be employed to compel them to acknowledge the justice of the said cessions?

"4th. But if the commissioners shall adjudge that the said treaties were formed with an inadequate or unauthorized representation of the Creek nation, or that the treaties were held under circumstances of constraint, or unfairness of any sort, so that the United States could not, with justice and dignity, request or urge a confirmation thereof: in this case, shall the commissioners, considering the importance of the Oconee lands to Georgia, be instructed to use their highest exertions to obtain a cession of said lands? If so, shall the commissioners be instructed, if they cannot obtain the said cessions on better terms, to offer for the same, and for the further great object of attaching the Creeks to the Government of the United States, the following conditions: 1st. A compensation in money or goods, to the amount of ——— dollars; the said amount to be stipulated to be paid by Georgia, at the period which shall be fixed, or, in failure thereof, by the United States. 2d. A secure port on the Altamaha, or on St. Mary's river, or at any other place between the same, as may be mutually agreed to by the commissioners and the Creeks. 3d. Certain pecuniary considerations to some, and honorable military distinctions to other influential chiefs, on their taking oaths of allegiance to the United States. 4th. A solemn guarantee by the United States to the Creeks of their remaining territory, and to maintain the same, if necessary, by a line of military posts.

"5th. But if all offers should fail to induce the Creeks to make the desired cessions to Georgia, shall the commissioners make it an ultimatum?

"6th. If the said cessions shall not be made an ultimatum, shall the commissioners proceed and make a treaty, and include the disputed lands within the limits which shall be assigned to the Creeks? If not, shall a temporary boundary be marked, making the Oconee the line, and the other parts of the treaty be concluded? In this case, shall a secure port be stipulated, and the pecuniary and honorary considerations

AUGUST, 1789.]

Proceedings.

[SENATE.]

granted? In other general objects, shall the treaties formed at Hopewell with the Cherokees, Chickasaws, and Choctaws be the basis of a treaty with the Creeks?

"7th. Shall the sum of twenty thousand dollars, appropriated to Indian expenses and treaties, be wholly applied, if necessary, to a treaty with the Creeks? If not, what proportion?"

Whereupon the Senate proceeded to give their advice and consent.

The first question, viz: "In the present state of affairs between North Carolina and the United States, will it be proper to take any other measures for redressing the injuries of the Cherokees than the one herein suggested?" was, at the request of the President of the United States, postponed.

"The second question, viz: "Shall the commissioners be instructed to pursue any other measure respecting the Chickasaws and Choctaws than those herein suggested?" being put, was answered in the negative.

The consideration of the remaining questions was postponed till Monday next.

MONDAY, August 24.

The Senate was to-day wholly engaged in executive business.

The President of the United States being present in the Senate Chamber, attended by General Knox,

"The Senate resumed the consideration of the state of facts, and questions thereto annexed, laid before them by the President of the United States, on Saturday last. And the first question, viz: "In the present state of affairs between North Carolina and the United States, will it be proper to take any other measures for redressing the injuries of the Cherokees than the one herein suggested?" being put, was answered in the negative.

The third question, viz: "If the commissioners shall adjudge that the Creek nation was fully represented at the three treaties with Georgia, and that the cessions of land were obtained with the full understanding and free consent of the acknowledged proprietors, and that the said treaties ought to be considered as just and equitable: in this case, shall the commissioners be instructed to insist on a formal renewal and confirmation thereof? and, in case of a refusal, shall they be instructed to inform the Creeks that the arms of the Union shall be employed to compel them to acknowledge the justice of the said cessions?" was wholly answered in the affirmative.

The fourth question, and its four subdivisions, viz: "But if the commissioners shall adjudge that the said treaties were formed with an inadequate or unauthorized representation of the Creek nation, or that the treaties were held under circumstances of constraint or unfairness of any sort, so that the United States could not, with justice and dignity, request or urge

a confirmation thereof: in this case, shall the commissioners, considering the importance of the Oconee lands to Georgia, be instructed to use their highest exertions to obtain a cession of said lands? If so, shall the commissioners be instructed, if they cannot obtain the said cessions on better terms, to offer for the same, and for the further great object of attaching the Creeks to the Government of the United States, the following conditions:

"1st. A compensation, in money or goods, to the amount of — dollars; the said amount to be stipulated to be paid by Georgia at the period which shall be fixed, or, in failure thereof, by the United States.

"2d. A secure port on the Altamaha or on St. Mary's river, or at any other place between the same, as may be mutually agreed to by the commissioners and the Creeks.

"3d. Certain pecuniary considerations to some, and honorary military distinctions to other influential chiefs, on their taking oaths of allegiance to the United States.

"4th. A solemn guarantee by the United States to the Creeks of their remaining territory, and to maintain the same, if necessary, by a line of military posts," was wholly answered in the affirmative. The blank to be filled at the discretion of the President of the United States.

The fifth question, viz: "But if all offers should fail to induce the Creeks to make the desired cessions to Georgia, shall the commissioners make it an ultimatum?" was answered in the negative.

The sixth question being divided, the first part, containing as follows, viz: "If the said cessions shall not be made an ultimatum, shall the commissioners proceed and make a treaty, and include the disputed lands within the limits which shall be assigned to the Creeks?" was answered in the negative.

The remainder, viz: "If not, shall a temporary boundary be marked, making the Oconee the line, and the other parts of the treaty be concluded?"

"In this case shall a secure port be stipulated, and the pecuniary and honorary considerations granted?"

"In other general objects, shall the treaties formed at Hopewell, with the Cherokees, Chickasaws, and Choctaws, be the basis of a treaty with the Creeks?" were all answered in the affirmative.

On the seventh question, viz: "Shall the sum of twenty thousand dollars, appropriated to Indian expenses and treaties, be wholly applied, if necessary, to a treaty with the Creeks? if not, what proportion?" It was agreed to advise and consent to appropriate the whole sum, if necessary, at the discretion of the President of the United States.

The President of the United States withdrew from the Senate Chamber, and the Vice President put the question of adjournment; to which the Senate agreed.

SENATE.]

Proceedings.

[AUGUST, 1789.]

TUESDAY, August 25.

Mr. MACLAY presented a draft of ten miles square, including the borough of Lancaster, with a letter, containing a description of the same, from Edward Hand, directed to the Honorable ROBERT MORRIS and the Honorable WILLIAM MACLAY. Mr. MACLAY likewise nominated Wright's Ferry, on the Susquehanna; York-Town, west of the Susquehanna; Carlisle, west of the Susquehanna; Harrisburgh, on the Susquehanna; Reading, on the Schuylkill; and Germantown, in the neighborhood of Philadelphia, as different places in Pennsylvania, which had been proposed for the permanent seat of Government of the United States.

The letter being read, was, together with the draft, ordered to lie for consideration.

Proceeded to the third reading of the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes; and

Resolved, That the Senate do concur therein with sixty-nine amendments.

Also, the bill to establish the Treasury Department, with an adherence of the House of Representatives to a part of the eighth amendment, to wit: "Whenever the Secretary of the Treasury shall be removed from office by the President of the United States, or in any other case of vacancy in the office of Secretary, the assistant shall, during the vacancy, have the charge and custody of the records, books, and papers appertaining to the said office."

Also, the resolve of the House of Representatives of the 24th of August, "that the Vice President and Speaker of the House of Representatives do adjourn their respective Houses on the twenty-second day of September next, to meet again on the first Monday in December next."

Also, the resolve of the House of Representatives, "that certain articles be proposed to the Legislatures of the several States, as amendments to the constitution of the United States;" and requested the concurrence of the Senate therein.

The Senate proceeded to consider the resolve of the House of Representatives of the 24th of August, "to adhere to the part of their eighth amendment," before recited and,

On motion that the Senate do recede therefrom, the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Carroll, Ellsworth, Elmer, Henry, King, Morris, Paterson, Read, and Schuyler.—10.

Nays.—Messrs. Butler, Dalton, Few, Gunn, Johnson, Izard, Langdon, Lee, Maclay, and Wingate.—10.

The Senate being equally divided, the Vice President determined the question in the affirmative. So it was

Resolved, That the Senate do recede from so much of the eighth amendment as was disagreed to by the House of Representatives.

The Senate proceeded to consider the resolve of the House of Representatives of the 24th of August, proposing, "that the Vice President and Speaker be empowered to adjourn the Senate and House of Representatives, respectively, on the 22d of September," &c.; and it was agreed to.

A message was received from the House of Representatives, with seventeen articles to be proposed as additions to, and amendments of, the constitution of the United States; such of these articles as have been agreed to, and ratified, will be found in the appendix to this volume.

Resumed the consideration of the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses.

Ordered, That it be committed to Messrs. KING, MORRIS, CARROLL, IZARD, and LEE.

WEDNESDAY, August 26.

The Senate proceeded to the consideration of the bill for the punishment of certain crimes against the United States; and, after progress, adjourned.

The Senate entered on executive business.

Proceeded to consider the report of a committee, appointed June the 10th, on Indian treaties made at Fort Harmar, the 9th day of January, 1789, viz:

The committee, to whom was referred the message of the President of the United States of the 25th of May, 1789, with the Indian treaties and papers accompanying the same, report:

That the Governor of the Western Territory, on the 9th day of January, 1789, at Fort Harmar, entered into two treaties; one with the sachems and warriors of the Six Nations, the Mohawks excepted; the other with the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pattawattima, and Sacs nations; that those treaties were made in pursuance of the powers and instructions heretofore given to the said Governor by the late Congress, and are a confirmation of the treaties of Fort Stanwix, in October, 1784, and of Fort McIntosh, in January, 1785, and contain a more formal and regular conveyance to the United States of the Indian claims to the lands yielded to these States by the said treaties of 1784 and 1785.

Your committee, therefore, submit the following resolution, viz:

That the treaties concluded at Fort Harmar, on the 9th day of January, 1789, between Arthur St. Clair, Esq. Governor of the Western Territory, on the part of the United States, and the sachems and warriors of the Six Nations, (the Mohawks excepted,) and the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pattawattima, and Sacs nations, be accepted; and that the President of the United States be advised to execute and enjoy an observance of the same.

Ordered, That the consideration thereof be postponed.

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

THURSDAY, August 27.

The Senate proceeded to the consideration of the bill for the punishment of certain crimes against the United States.

Ordered, That the bill be engrossed.

Mr. KING, on behalf of the committee to whom was referred the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses, reported amendments.

Ordered, That to-morrow be assigned for taking the same into consideration.

FRIDAY, August 28.

A message from the House of Representatives, by their Clerk, informed the Senate that the President of the United States had signed an enrolled resolve, for carrying into effect a survey directed by an act of the late Congress, of the 6th of June, 1788; he brought up an enrolled bill to establish the Treasury Department, signed by the Speaker of the House of Representatives; and an engrossed bill to provide for the safe-keeping of the acts, records, and seal of the United States, and for other purposes, and requested the concurrence of the Senate therein. He also informed the Senate, that the House of Representatives had concurred in the amendments proposed to the bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes, with amendments to the third and fifty-seventh amendments proposed by the Senate.

The Senate resumed the consideration of the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; which was passed, with amendments.

The Senate proceeded to consider the message from the House of Representatives of the 28th of August, proposing amendments to the third and fifty-seventh amendments of the Senate to a bill for registering and clearing of vessels, regulating the coasting trade, and for other purposes.

MONDAY, August 31.

The Senate proceeded to the third reading of the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; which was passed, with amendments.

A message from the House of Representatives brought to the Senate a bill for establishing the salaries of the executive officers of Government, with their assistants and clerks; to which the concurrence of the Senate was requested. The bill passed its first reading.

Ordered, That this bill be read a second time to-morrow.

TUESDAY, September 1.

The Senate proceeded to the second reading of the bill for establishing the salaries of the

executive officers of Government, with their assistants and clerks.

Ordered, That this bill have the third reading to-morrow.

Ordered, That the Secretary carry the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses, to the House of Representatives, and request their concurrence in the amendments.

The bill to provide for the safe-keeping of the acts, records, and seal of the United States, and for other purposes, was read the second time.

Ordered, That this bill have the third reading to-morrow.

WEDNESDAY, September 2.

The bill to provide for the safe-keeping of the acts, records, and seal of the United States, and for other purposes, was read the third time, and

Ordered, That it be committed to Mr. KING, Mr. PATERSON, and Mr. READ.

The third reading of the bill for establishing the salaries of the executive officers of Government, with their assistants and clerks, was further postponed.

The resolve of the House of Representatives of the 24th of August, 1789, "that certain articles be proposed to the Legislatures of the several States, as amendments to the constitution of the United States," was taken into consideration; and, on motion to amend this clause of the first article proposed by the House of Representatives, to wit: "After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred," by striking out "one," and inserting "two," between the words "amount to" and "hundred;"

The yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Dalton, Gunn, Grayson, King, Lee, and Schuyler.—6.

Nays.—Messrs. Bassett, Butler, Carroll, Ellsworth, Elmer, Henry, Johnson, Izard, Morris, Paterson, Read, and Wingate.—12.

So it passed in the negative.

On motion to adopt the first article proposed by the resolve of the House of Representatives, amended as follows: to strike out these words, "after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor less than one representative for every fifty thousand persons;" and to substitute the following clause after the words

SENATE.]

Proceedings.

[SEPTEMBER, 1789.]

"one hundred:" to wit, "to which number one representative shall be added for every subsequent increase of forty thousand, until the representatives shall amount to two hundred, to which one representative shall be added for every subsequent increase of sixty thousand persons:" it passed in the affirmative.

THURSDAY, September 3.

A message from the House of Representatives brought up the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses, and informed the Senate that the House of Representatives had disagreed to the first, second, and third amendments, and had agreed to all the others.

Also, the bill to suspend part of the act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States.

FRIDAY, September 4.

The Senate proceeded in the consideration of the resolve of the House of Representatives of the 24th of August, on "Articles to be proposed to the Legislatures of the several States, as amendments to the constitution of the United States."

MONDAY, September 7.

Agreeably to the order of the day, the Senate proceeded in the third reading of the bill to provide for the safe-keeping of the acts, records, and seal of the United States, and for other purposes; and, on the report of the committee,

Resolved, To concur therein, with amendments.

The Senate proceeded in the third reading of the bill for establishing the salaries of the executive officers of Government, with their assistants and clerks; and

Resolved, To concur therein, with amendments.

The bill to suspend part of an act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, was read the first time.

Ordered, That this bill be read the second time to-morrow.

The Senate proceeded to the consideration of the resolve of the House of Representatives of the 2d of September, on their disagreement to the first, second, and third amendments of the Senate to the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses.

On motion that the Senate do adhere to their first amendment to the said bill;

And the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Butler, Dalton, Ellsworth, Gunn, Henry, Johnson, Izard, King, Lee, Morris, and Read.—12.

Nays.—Messrs. Carroll, Elmer, Paterson, Schuyler, and Wingate.—5.

So it was *Resolved*, That the Senate do adhere to the first amendment to the said bill.

Resolved, That the Senate do recede from their second and third amendments to the said bill.

Proceeded in the third reading of the bill for allowing a compensation to the President and Vice President of the United States; and,

On the report of the committee,

Resolved, That the Senate do concur in the said bill, with the following amendments, to wit:

In the compensation to the Vice President, strike out "five thousand," and insert "six thousand."

Ordered, That the Secretary do carry the bill to the House of Representatives, and request their concurrence in the amendment.

The Senate resumed the consideration of the resolve of the House of Representatives of the 24th of August, on "Articles to be proposed to the Legislatures of the several States, as amendments to the constitution of the United States."

On motion to adopt the twelfth article of the amendments proposed by the House of Representatives, amended by the addition of these words to the article, to wit: "where the consideration exceeds twenty dollars;" it passed in the affirmative.

On motion to adopt the thirteenth article of the amendments proposed by the House of Representatives, it passed in the affirmative.

On motion to adopt the fourteenth article of the amendments proposed by the House of Representatives: it passed in the negative.

In the consideration of the fifteenth article proposed by the House of Representatives, on motion to add the following to the proposed amendments, to wit: "That the General Government of the United States ought never to impose direct taxes but where the moneys arising from the duties, impost, and excise are insufficient for the public exigencies, nor then, until Congress shall have made a requisition upon the States to assess, levy, and pay their respective portions of such requisitions; and in case any State shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such State's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed by such requisition;" it passed in the negative.

On motion to add the following to the proposed amendments, viz: "That the third section of the sixth article of the Constitution of the United States ought to be amended, by inserting the word "other" between the words "no" and "religious;" it passed in the negative.

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

TUESDAY, September 8.

The Senate proceeded in the consideration of the resolve of the House of Representatives of the 24th of August, "On articles to be proposed to the Legislatures of the several States as amendments to the constitution of the United States." Several amendments were proposed, but none of them were agreed to. The subject was postponed till to-morrow.

A message from the House of Representatives brought up the bill for allowing a compensation to the President and Vice President of the United States; and informed the Senate that the House of Representatives had disagreed to the amendment thereon;

Also, the bill for establishing the salaries of the executive officers of Government, with their assistants and clerks, with part of the amendments agreed to, and another part disagreed to.

Also, the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; and informed the Senate that the House of Representatives requested a conference on the subject-matter of the disagreement of the two Houses on the said bill, and had appointed Messrs. SHERMAN, TUCKER, and BENSON, managers on the part of the House of Representatives; and, also, that the House of Representatives had concurred in their amendments to the bill to provide for the safe-keeping of the acts, records, and seal of the United States.

The Senate proceeded to consider the disagreement of the House to a part of their amendments to the bill for allowing a compensation to the President and Vice President, *insisted* on their amendment, and requested a conference; and the Senate *receded* from their amendments to the bill for establishing the salaries of the executive officers, &c. The Senate also agreed to a conference proposed by the House on the matter of disagreement between the two Houses to the bill for allowing compensation to the members of the Senate and House of Representatives, &c. and appointed, as a committee on their part, Messrs. KING, IZARD, and MORRIS.

The Senate entered on executive business.

They proceeded to the consideration of the message from the President of the United States, of the 25th of May, 1789, accompanying the treaties formed at Fort Harmar, by Arthur St. Clair, Esq., on the part of the United States, viz: a treaty with the sachems and warriors of the Six Nations, (the Mohawks excepted,) and a treaty with the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pat-tawattima, and Sac nations. Whereupon,

Resolved, That the President of the United States be advised to execute and enjoin an observance of the treaty concluded at Fort Harmar, on the 9th day of January, 1789, between Arthur St. Clair, Governor of the Western Territory, on the part of the United States, and the sachems and warriors of

the Wyandot, Delaware, Ottawa, Chippewa, Pat-tawattima, and Sac nations.

WEDNESDAY, September 9.

The Senate proceeded in the consideration of the resolve of the House of Representatives on the articles to be proposed to the Legislatures of the several States as amendments to the constitution, and agreed to a part of them, and disagreed to others; of which they informed the House.

THURSDAY, September 10, 1789.

A message from the House of Representatives brought up a resolve of the House of Representatives, "that, until further provision be made by law, the General Post Office of the United States shall be conducted according to the rules and regulations prescribed by the ordinances and resolutions of the late Congress, and that contracts be made for the conveyance of the mail in conformity thereto."

This resolve was committed to Messrs. BUTLER, MORRIS, and ELLSWORTH, with an instruction to report a bill upon the subject.

FRIDAY, September 11.

A message from the House of Representatives brought up the bill for suspending the operation of part of an act imposing duties on tonnage, to which he requested the concurrence of the Senate; which was read the first and second times.

MR. BUTLER, in behalf of the committee appointed on the 10th of September on the resolve of the House of Representatives, providing for the regulation of the Post Office, reported not to concur in the resolve, and a bill upon the subject-matter thereof;

And, on the question of concurrence in the resolve of the House of Representatives, it passed in the negative.

The Senate entered on executive business.

The following message from the President was read:

Gentlemen of the Senate:

I nominate, for the Department of the Treasury of the United States, Alexander Hamilton, of New-York, Secretary; Nicholas Evleigh, of South Carolina, Comptroller; Samuel Meredith, of Pennsylvania, Treasurer; Oliver Wolcott, Jun., of Connecticut, Auditor; Joseph Nourse, (in office,) Register. For the Department of War, Henry Knox. For Judge in the Western Territory, in place of William Barton, who declines the appointment, George Turner. For Surveyor in the district of Rappahannock, State of Virginia, in place of Staige Davis, who declines the appointment, I nominate Peter Kemp. For Surveyor of Town Creek, in the district of Patuxent, State of Maryland, in place of Robert Young, who declines the appointment, I nominate Charles Chilton. And, in case the nomination of Samuel Meredith should meet the advice and consent of the Senate, I nominate, as Surveyor of the port of Philadelphia, William McPherson.

GEO. WASHINGTON.

NEW YORK, September 11, 1789.

SENATE.]

Proceedings.

[SEPTEMBER, 1789.]

Ordered, That the rules be so far dispensed with as that the Senate do consider the President's message at this time; and,

On the question to advise and consent to the appointment of Alexander Hamilton, of New-York, to be Secretary for the Department of the Treasury of the United States, it passed in the affirmative.

On the question to advise and consent to the appointment of Nicholas Eveleigh, of South Carolina, to be Comptroller, and of Samuel Meredith to be Treasurer, it passed in the affirmative.

Ordered, That the further consideration of the message from the President of the United States be postponed until to-morrow.

SATURDAY, September 12.

Mr. MORRIS, on behalf of the committee appointed on the 11th September, to consider the bill to suspend part of an act to regulate the collection of duties on the tonnage of ships and vessels, &c., reported it with an amendment; which was concurred with.

The Senate again entered upon executive business, and proceeded in the consideration of the message from the President of the United States of the 11th of September; and,

On the question to advise and consent to the appointment of Oliver Wolcott, Jun., of Connecticut, to be Auditor for the Department of the Treasury of the United States, it passed in the affirmative.

On the question to advise and consent to the appointment of Joseph Nourse, (in office,) Register, it passed in the affirmative.

On the question to advise and consent to the appointment of Henry Knox, Secretary for the Department of War, it passed in the affirmative.

On the question to advise and consent to the appointment of George Turner for Judge in the Western Territory, it passed in the affirmative.

On the question to advise and consent to the appointment of Peter Kemp for Surveyor in the district of Rappahannock, it passed in the affirmative.

On the question to advise and consent to the appointment of Charles Chilton, for Surveyor of Town Creek, in the district of Patuxent, State of Maryland, it passed in the affirmative.

Ordered, That the further consideration of the message from the President of the United States of the 11th of September be postponed for a few days.

MONDAY, September 14.

Agreeably to the order of the day, the Senate proceeded in the second reading of the bill for the temporary establishment of the Post Office; and,

Ordered, That this bill have the third reading to-morrow.

A message from the House of Representatives informed the Senate that the House of

Representatives had concurred in the amendments proposed by the Senate to a bill to suspend part of an act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States.

TUESDAY, September 15.

The Senate proceeded to the third reading of the bill for the temporary establishment of the Post Office.

Resolved, That the engrossed bill for the temporary establishment of the Post Office do pass.

WEDNESDAY, September 16.

The following message from the President of the United States was received, by the Secretary of War:

Gentlemen of the Senate:

The Governor of the Western Territory has made a statement to me of the reciprocal hostilities of the Wabash Indians, and the people inhabiting the frontiers bordering on the river Ohio, which I herewith lay before Congress.

The United States, in Congress assembled, by their acts of the 21st day of July, 1787, and of the 12th August, 1788, made a provisional arrangement for calling forth the militia of Virginia and Pennsylvania in the proportions therein specified.

As the circumstances which occasioned the said arrangement continue nearly the same, I think proper to suggest to your consideration the expediency of making some temporary provision for calling forth the militia of the United States for the purposes stated in the constitution, which would embrace the cases apprehended by the Governor of the Western Territory.

GEO. WASHINGTON.

September 16, 1789.

THURSDAY, September 17.

Mr. LEE, in behalf of the committee appointed to prepare a bill for organizing the Judiciary of the United States, reported a bill to regulate processes in the courts of the United States.

Ordered, That this bill have the first reading at this time.

Ordered, That this bill be read the second time to-morrow.

A message from the House of Representatives informed the Senate that the House of Representatives adhered to their disagreement to the amendment proposed by the Senate to a bill for allowing a compensation to the President and Vice President of the United States; and that the House of Representatives had concurred in the bill for the temporary establishment of the Post Office. It also informed the Senate that the House of Representatives had concurred in the bill to establish the judicial courts of the United States, with amendments; to which amendments the concurrence of the Senate was requested.

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

Ordered, That the last mentioned bill, together with the amendments, be committed to MESSRS. ELLSWORTH, BUTLER, and PATERSON.

The Senate entered on executive business.

The following message was received from the President of the United States:

Gentlemen of the Senate:

It doubtless is important that all treaties and compacts formed by the United States with other nations, whether civilized or not, should be made with caution, and executed with fidelity.

It is said to be the general understanding and practice of nations, as a check on the mistakes and indiscretions of ministers or commissioners, not to consider any treaty negotiated and signed by such officers as final and conclusive, until ratified by the sovereign or government from whom they derive their powers. This practice has been adopted by the United States respecting their treaties with European nations, and I am inclined to think it would be advisable to observe it in the conduct of our treaties with the Indians; for, though such treaties being, on their part, made by their chiefs or rulers, need not be ratified by them, yet, being formed on our part by the agency of subordinate officers, it seems to be both prudent and reasonable that their acts should not be binding on the nation until approved and ratified by the Government. It strikes me that this point should be well considered and settled, so that our national proceedings, in this respect, may become uniform, and be directed by fixed and stable principles.

The treaties with certain Indian nations, which were laid before you with my message of the 25th May last, suggested two questions to my mind, viz: 1st, Whether those treaties were to be considered as perfected, and, consequently, as obligatory, without being ratified? If not, then 2dly, Whether both, or either, and which of them, ought to be ratified? On these questions I request your opinion and advice.

You have, indeed, advised me "*to execute and enjoin an observance of*" the treaty with the Wyandots, &c. You, gentlemen, doubtless intended to be clear and explicit; and yet, without further explanation, I fear I may misunderstand your meaning: for if by my *executing* that treaty you mean that I should make it (in a more particular and immediate manner than it now is) the act of Government, then it follows that I am to ratify it. If you mean by my *executing it* that I am to see that it be carried into effect and operation, then I am led to conclude, either that you consider it as being perfect and obligatory in its present state, and therefore to be executed and observed; or, that you consider it to derive its completion and obligation from the silent approbation and ratification which my proclamation may be construed to imply. Although I am inclined to think that the latter is your intention, yet it certainly is best that all doubts respecting it be removed.

Permit me to observe, that it will be proper for me to be informed of your sentiments relative to the treaty with the Six Nations, previous to the departure of the Governor of the Western Territory;

and therefore I recommend it to your early consideration.

GEO. WASHINGTON.

September 17, 1789.

Ordered, That the President's message be committed to MESSRS. CARROLL, KING, and READ.

FRIDAY, September 18.

A message from the House of Representatives was received, which informed the Senate that the House of Representatives had agreed to postpone the consideration of the bill for the punishment of certain crimes against the United States, which had passed the Senate, and was sent to the House of Representatives for concurrence, until the next session of Congress. It also brought up a resolve of the House of Representatives making it "the duty of the Secretary of State to procure, from time to time, such of the statutes of the several States as may not be in his office;" to which the concurrence of the Senate was requested.

The Senate proceeded to the second reading of the bill to regulate processes in the courts of the United States.

Ordered, That the further consideration thereof be postponed until to-morrow.

The resolve of the House of Representatives of the 18th September, empowering the Secretary of State to procure, from time to time, such of the statutes of the several States as may not be in his office, was read; whereupon,

Resolved, That the Senate do concur in the above resolution sent up for concurrence by the House of Representatives.

The Senate entered on executive business.

Mr. CARROLL, on behalf of the committee appointed yesterday, reported as follows:

The committee, to whom was referred a message from the President of the United States of the 17th September, 1789, report:

That the signature of treaties with the Indian nations has ever been considered as a full completion thereof, and that such treaties have never been solemnly ratified by either of the contracting parties, as hath been commonly practised among the civilized nations of Europe: wherefore, the committee are of opinion that the formal ratification of the treaty concluded at Fort Harmar, on the 9th day of January, 1789, between Arthur St. Clair, Governor of the Western Territory, on the part of the United States, and the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pattiwatima, and Sac nations, is not expedient or necessary; and that the resolve of the Senate of the 8th September, 1789, respecting the said treaty, authorizes the President of the United States to enjoin a due observance thereof.

That, as to the treaty made at Fort Harmar, on the 9th of January, 1789, between the said Arthur St. Clair and the sachems and warriors of the Six Nations, (except the Mohawks,) from particular circumstances affecting a part of the ceded lands, the

SENATE.]

Proceedings.

[SEPTEMBER, 1789.]

Senate did not judge it expedient to pass any act concerning the same.

Ordered, That the consideration of the report be postponed until Monday next.

The Senate proceeded to consider the message from the President of the United States, of September 11th, nominating William McPherson as surveyor of the port of Philadelphia; and,

Upon the question to advise and consent to his appointment, it passed in the affirmative.

SATURDAY, September 19.

Agreeably to the order of the day, the Senate proceeded in the second reading of the bill to regulate processes in the courts of the United States.

Ordered, That the rules be so far dispensed with, as that the last recited bill have the third reading at this time. *Ordered*, That the bill be engrossed.

A message from the House of Representatives brought up a bill for amending part of an act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States; to which the concurrence of the Senate was requested.

Ordered, That the last recited bill now have the first reading.

Ordered, That the rules be so far dispensed with, as that this bill have a second reading at this time.

Ordered, That this bill have the third reading on Monday next.

A message from the House of Representatives brought up the bill for allowing certain compensation to the Judges of the Supreme and other courts, and to the Attorney General of the United States; to which concurrence was requested.

Ordered, That the last recited bill have the first reading at this time.

Ordered, That the rules be so far dispensed with, as that this bill be now read the second time.

MONDAY, September 21.

Mr. MORRIS, in behalf of the Senators from the State of Pennsylvania, introduced a resolve of the General Assembly of that State, of March the 5th, 1789, making "a respectful offer to Congress of the use of any or all the public buildings in Philadelphia, the property of the State, &c. in case Congress should, at any time, incline to make choice of that city for the temporary residence of the Federal Government; which was read."

Ordered, That it lie for consideration.

A message from the House of Representatives brought up a resolve of the House of this date, to agree to the 2d, 4th, 8th, 12th, 13th, 16th, 18th, 19th, 25th, and 26th amendments, proposed by the Senate, to "Articles of amend-

ment to be proposed to the Legislatures of the several States, as amendments to the constitution of the United States;" and to disagree to the 1st, 3d, 5th, 6th, 7th, 9th, 10th, 11th, 14th, 15th, 17th, 20th, 21st, 22d, 23d, and 24th amendments: two-thirds of the members present concurring on each vote; and "that a conference be desired with the Senate on the subject matter of the amendments disagreed to," and that Messrs. MADISON, SHERMAN, and Vining, be appointed managers of the same on the part of the House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it be recommended to the Legislatures of the several States to pass laws, making it expressly the duty of the keepers of their gaols to receive, and safe keep therein, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof, under the like penalties as in the case of prisoners committed under the authority of such States respectively; the United States to pay for the use and keeping of such gaols, at the rate of fifty cents per month for each prisoner that shall, under their authority, be committed thereto, during the time such prisoners shall be therein confined; and, also, to support such of said prisoners as shall be committed for offences.

Ordered, That the Secretary do carry this resolve to the House of Representatives, and request concurrence therein.

A message from the House of Representatives brought up the resolve of the Senate of this day, making provision "for the safe keeping of the prisoners committed under the authority of the United States," concurred in by the House of Representatives; also the bill for allowing certain compensation to the Judges of the Supreme and other Courts, and to the Attorney General of the United States; and informed the Senate that the House of Representatives had agreed to all the amendments proposed to the said bill, except the fourth, to which they had disagreed.

The Senate proceeded to consider the disagreement of the House of Representatives to their fourth amendment to the bill last recited; and,

Resolved, That the Senate do recede therefrom.

TUESDAY, September 22.

A message from the House of Representatives brought up an order of the House of Representatives, for postponing the adjournment of Congress until the 26th of September, for concurrence.

The Senate proceeded to consider the order of the House of Representatives of this day, "rescinding the order to the Vice President and Speaker, of the 25th of August, to adjourn the respective Houses of Congress on the 22d, and empowering them to adjourn the same on the 26th instant; and,

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

Resolved, That the Senate do concur in the said order.

Ordered, That the bill to establish the seat of Government of the United States have the first reading at this time.

Ordered, That it be read a second time tomorrow.

The Senate entered on executive business.

They proceeded to consider the report of the committee, appointed the 17th, on the President's message of that date; and,

On motion to postpone the report, to substitute the following, to wit:

Resolved, That the Senate do advise and consent that the President of the United States ratify the treaty concluded at Fort Harmar, on the 9th day of January, 1789, between Arthur St. Clair, Governor of the Western Territory, on the part of the United States, and the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pattawattima, and Sac nations:

It passed in the affirmative.

And, it being suggested that the treaty concluded at Fort Harmar, on the 9th day of January, 1789, between Arthur St. Clair, Governor of the Western Territory, on the part of the United States, and the sachems and warriors of the Six Nations, (except the Mohawks,) may be construed to prejudice the claims of the States of Massachusetts and New York, and of the grantees under the said States, respectively;

Ordered, That the consideration thereof be postponed until next session of Senate.

WEDNESDAY, September 23.

A message from the House of Representatives brought up the bill to recognise, and adapt to the constitution of the United States, the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned; to which concurrence was requested.

Ordered, That the bill brought up from the House of Representatives this morning be now read the first time.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill to establish the seat of Government of the United States; and, after progress, adjourned.

THURSDAY, September 24.

A message from the House of Representatives brought up the bill to alter the time for the next meeting of Congress; the bill to explain and amend an act for registering and clearing vessels, regulating the coasting trade, and for other purposes; and, "a resolve on the petition of Baron de Glaubeck; to which he requested the concurrence of the Senate.

Ordered, That the bill to explain and amend an act for registering and clearing vessels, regulating the coasting trade, and for other purposes, be now read the first time.

The Senate proceeded in a second reading of the bill to establish the seat of Government of the United States.

On motion to strike out these words, "in the State of Pennsylvania," after the word Susquehannah, line 4th, and the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Butler, Carroll, Grayson, Gunn, Henry, Izard, and Lee.—8.

Nays.—Messrs. Dalton, Ellsworth, Johnson, King, Maclay, Morris, Paterson, Read, Schuyler, and Wingate.—10.

So it passed in the negative.

On motion that these words, "at some convenient place on the banks of the river Susquehannah, in the State of Pennsylvania," lines 3d and 4th, be stricken out, it passed in the negative.

On motion for reconsideration, on a suggestion that the question was not understood, it passed in the affirmative.

And, on the main question, the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Butler, Dalton, Ellsworth, Grayson, Gunn, Lee, Morris, Paterson, Read, and Wingate.—11.

Nays.—Messrs. Carroll, Henry, Johnson, Izard, King, Maclay, and Schuyler.—7.

So it passed in the affirmative.

On motion to insert, in the room of the word stricken out, "at some convenient place on the northern bank of the river Potomac," it passed in the negative.

On motion to restore these words, "at some convenient place on the banks of the river Susquehannah,"

A motion was made to postpone this, to insert the following motion, to wit: to fill the blank with these words "in the counties of Philadelphia, Chester, and Bucks, and State of Pennsylvania, including within it the town of Germantown, and such part of the Northern Liberties of the city of Philadelphia as are not excepted by the act of cession passed by the Legislature of the said State."

And the question of postponement passed in the affirmative.

And, on the main question, the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Bassett, Dalton, Ellsworth, King, Morris, Paterson, Read, Schuyler, and Wingate.—9.

Nays.—Messrs. Butler, Carroll, Grayson, Gunn, Henry, Johnson, Izard, Lee, and Maclay.—9.

The numbers being equal, the Vice President determined the question in the affirmative.

The Senate entered on executive business.

The following message from the President of the United States was read:

SENATE.]

Proceedings.

[SEPTEMBER, 1789.]

Gentlemen of the Senate.

I nominate for the Supreme Court of the United States—

For Chief Justice.—John Jay, of New York.

For Associate Judges.—John Rutledge, of South Carolina; James Wilson, of Pennsylvania; William Cushing, of Massachusetts; Robert H. Harrison, of Maryland; John Blair, of Virginia.

I also nominate, for District Judges, Attorneys, and Marshals, the persons whose names are below, and annexed to the districts, respectively, viz:

<i>Districts.</i>	<i>Judges.</i>
Maine, - - -	David Sewell.
New Hampshire, -	John Sullivan.
Massachusetts, -	John Lowell.
Connecticut, - -	Richard Law.
Pennsylvania, - -	Francis Hopkinson.
Delaware, - - -	Gunning Bedford.
Maryland, - - -	Thomas Johnson.
Virginia, - - -	Edm. Pendleton.
South Carolina, -	Thomas Pinckney.
Georgia, - - -	Nathaniel Pendleton.
Kentucky, - - -	Harry Innes.

<i>Districts.</i>	<i>Attorneys.</i>
Maine, - - -	William Lithgow.
New Hampshire, -	Sam. Sherburne, Jun.
Massachusetts, -	Christopher Gore.
Connecticut, - -	Pierpont Edwards.
Pennsylvania, - -	William Lewis.
Delaware, - - -	George Read, Jun.
Maryland, - - -	Richard Potts.
Virginia, - - -	John Marshall.
South Carolina, -	John Julius Pringle.
Georgia, - - -	Mat. McAllister.
Kentucky, - - -	George Nicholas.

<i>Districts.</i>	<i>Marshals.</i>
Maine, - - -	Henry Dearborn.
New Hampshire, -	John Parker.
Massachusetts, -	Jonathan Jackson.
Connecticut, - -	Philip Bradley.
Pennsylvania, - -	Clement Biddle.
Delaware, - - -	Allan McLean.
Maryland, - - -	Nathaniel Ramsay.
Virginia, - - -	Edward Carrington.
South Carolina, -	Isaac Huger.
Georgia, - - -	Robert Forsyth.
Kentucky, - - -	Sam. McDowell, Jun.

GEO. WASHINGTON.

FRIDAY, September 25.

The Senate, agreeably to the order of the day, proceeded in the second reading of the bill to establish the seat of Government of the United States.

On motion to strike out these words, "And that, until the necessary buildings shall be erected therein, the seat of Government shall continue at the city of New York;"

And the yeas and nays being required by one-fifth of the Senators present, the determination was as follows:

Yeas.—Messrs. Butler, Carroll, Grayson, Gunn, Henry, Lee, and Maclay.—7.

Nays.—Messrs. Bassett, Dalton, Ellsworth, Johnson, Izard, King, Morris, Paterson, Read, Schuyler, and Wingate.—11.

So it passed in the negative.

On motion to amend the second section, to read as follows: "*And be it further enacted,* That the President of the United States be authorized to appoint three commissioners, who are, under his direction, to locate a district, not exceeding ten miles square, in the said counties, and including therein the said Northern Liberties and town of Germantown, and to purchase such quantity of land within the same as may be necessary, and to accept grants of lands for the use of the United States, and to erect thereon, within four years, suitable buildings for the accommodation of the Congress and of the officers of the United States;"

It passed in the affirmative.

On motion to strike out the two last sections, and to substitute the following: "*Provided,* That no powers herein vested in the President of the United States, shall be carried into effect until the State of Pennsylvania, or individual citizens of the same, shall give satisfactory security to the Secretary of the Treasury to furnish and pay, as the same may be necessary, one hundred thousand dollars, to be employed in erecting the said buildings;"

It passed in the affirmative.

Ordered, That this bill be read the third time to-morrow.

A message from the House of Representatives informed the Senate that the House of Representatives had passed a resolve, requesting "the President of the United States to transmit to the Executives of the several States, which have ratified the constitution, copies of the amendments proposed by Congress to be added thereto; and like copies to the Executives of the States of Rhode Island and North Carolina;" and that the House requested the concurrence of the Senate therein. It also informed the Senate, that the House of Representatives had passed a bill making appropriations for the service of the present year; to which concurrence was also requested.

Ordered, That the last mentioned bill be now read the first time.

Ordered, That this bill be read the second time to-morrow.

The Senate proceeded to consider the message from the House of Representatives of the 24th, with amendments to the amendments of the Senate to "Articles to be proposed to the Legislatures of the several States, as amendments to the constitution of the United States;" and,

Resolved, That the Senate do concur in the amendments proposed by the House of Representatives to the amendments of the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives had passed a resolve, appointing a joint committee "to wait on the President of the United States, to request that he would recommend to the people of the United States a day of public thanksgiving and prayer to be observed; and, "An act, providing for

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

the payment of the invalid pensioners of the United States;" to all which the concurrence of the Senate was requested.

The Senate proceeded to consider the amendments of the House of Representatives to the bill to regulate processes in the courts of the United States, and

Resolved, That the Senate do concur in all the amendments except the first, in which they do not concur.

The Senate proceeded in the second reading of the bill to alter the time for the next meeting of Congress. It was read the third time.

SATURDAY, September 26.

The following message was received from the President of the United States, by Mr. JAY: *Gentlemen of the Senate*:

Having yesterday received a letter written in this month, by the Governor of Rhode Island, at the request, and in behalf, of the General Assembly of that State, addressed to the President, the Senate, and the House of Representatives of the eleven United States of America in Congress assembled, I take the earliest opportunity of laying a copy of it before you.

GEO. WASHINGTON.

September 26, 1789.

Ordered, That the message, together with the letter therein referred to, lie for consideration.

Resolved, That the order of the 22d instant, directing the President of the Senate and Speaker of the House of Representatives, to adjourn their respective Houses on this day, be rescinded; and, instead thereof, that they be directed to close the present session by adjourning their respective Houses on the 29th instant.

A message from the House of Representatives informed the Senate that the House of Representatives had concurred in the above resolve.

The Senate proceeded to the second reading of the bill making appropriations for the service of the present year.

Ordered, That it be committed to Messrs. READ, BUTLER, KING, ELLSWORTH, and MORRIS.

A message from the House of Representatives informed the Senate that the House of Representatives do *insist* on their amendment to the bill to regulate processes in the courts of the United States.

✓The Senate proceeded to the third reading of the bill to establish the seat of Government of the United States.

On motion to postpone the further consideration thereof, it passed in the negative.

On the question, "Shall this bill pass?"

The yeas and nays being required by one-fifth of the Senators present, the determination was as follows.

Yeas.—Messrs. Bassett, Dalton, Ellsworth, Johnson, King, Morris, Paterson, Read, Schuyler, and Wingate.—10.

Nays.—Messrs. Butler, Carroll, Grayson, Gunn, Henry, Izard, and Lee.—7.

So it passed in the affirmative.

Ordered, That the Secretary do carry this bill to the House of Representatives, and request their concurrence in the amendments.

The Senate proceeded to consider the amendment insisted on by the House of Representatives to the bill to regulate processes in the courts of the United States.

Ordered, That a conference be proposed on the subject-matter of disagreement; that Mr. ELLSWORTH, Mr. KING, and Mr. READ, be managers thereof on the part of the Senate, and that the Secretary do carry a message to the House of Representatives accordingly, and request the appointment of managers of the conference on their part.

A message from the House of Representatives informed the Senate that the House had agreed to the proposed conference, and had appointed Messrs. WHITE, BURKE, and JACKSON, managers on their part.

The Senate proceeded to the first reading of the bill providing for the payment of the invalid pensioners of the United States.

Ordered, That this bill be committed to Messrs. READ, BUTLER, KING, ELLSWORTH, and MORRIS.

The Senate proceeded to the second reading of the bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned.

The Senate proceeded to the third reading of the bill for amending part of an act to regulate the collection of the duties imposed by law on the tonnage of ships and vessels, and on goods, wares, and merchandises imported into the United States.

Ordered, That this bill be committed to Messrs. READ, MORRIS, and DALTON.

The Senate proceeded to the second reading of the bill to explain and amend an act for registering and clearing vessels, regulating the coasting trade, and for other purposes.

Ordered, That this bill be committed to Messrs. READ, MORRIS, and DALTON.

The Senate proceeded to consider the following resolve of the House of Representatives of the 25th instant, to wit:

"*Resolved*, That a joint committee of both Houses be appointed to wait on the President of the United States, to request that he would recommend to the people of the United States a day of public thanksgiving and prayer, to be observed, by acknowledging, with grateful hearts, the many and signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness.

"*Ordered*, That Messrs. BOUDINOT, SHERMAN, and SYLVESTER be appointed of the said committee on the part of this House."

Resolved, That the Senate do concur in the above recited resolution, and that Messrs. JOHNSON and IZARD be the committee on the part of the Senate.

SENATE.]

Proceedings.

[SEPTEMBER, 1789.]

Resolved, That Messrs. JOUNSON and IZARD be a committee on the part of the Senate, together with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and acquaint him that Congress have agreed upon a recess on the 29th instant.

The Senate entered on executive business.

All the appointments proposed by the President in his message of the 24th instant were confirmed;

And the following message was received from the President:

Gentlemen of the Senate:

I nominate, for the district of New York, James Duane, Judge; William S. Smith, Marshal; Richard Harrison, Attorney.

For the district of New Jersey, David Brearly, Judge; Thomas Lowry, Marshal; Richard Stockton, Attorney.

And I likewise nominate Thomas Jefferson, for Secretary of State; Edmund Randolph, for Attorney General; Samuel Osgood, for Postmaster General.

GEO. WASHINGTON.

September 25, 1789.

And the appointments were immediately confirmed.

MONDAY, September 28.

A message from the House of Representatives informed the Senate that the House had concurred in the appointment of a committee on their part "to wait on the President of the United States, and to acquaint him of the intended recess of Congress on the 29th instant;" and that Messrs. VINING, LEE, and GILMAN were joined.

Mr. READ, on behalf of the committee appointed on the bill to explain and amend an act for registering and clearing of vessels, regulating the coasting trade, and for other purposes, reported the same with an amendment.

Ordered, That the report of the committee be postponed to take up the bill.

The Senate proceeded in the third reading of the last recited bill, and

Resolved, That this bill do pass with the amendment.

Mr. READ, on behalf of the committee appointed on the bill for amending part of an act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, reported non-concurrence; whereupon,

Resolved, That this bill do not pass.

Mr. READ, on behalf of the committee on the bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned, reported amendments.

Ordered, That the report be postponed to take up the bill.

Proceeded in the third reading of the bill.

Resolved, That this bill do pass with the amendments reported by the committee

Mr. READ, in behalf of the committee appointed on the bill providing for the payment of the invalid pensioners of the United States, reported concurrence.

Ordered, That this bill be now read the second time.

Ordered, That the rules be so far dispensed with as that this bill have a third reading at this time.

Resolved, That this bill do pass.

The managers appointed on the part of the Senate to confer on the subject of the disagreement of the two Houses on the first amendment proposed by the House of Representatives to the bill to regulate processes in the courts of the United States, reported that they could not agree on a report;

And, on motion to adopt the following resolution, to wit: That the Senate do agree to the first amendment proposed by the House of Representatives, with an amendment, by striking out, after the word "issuing," in the third and fourth lines of the first section, the following words: "out of any of the courts of the United States of America, shall be in the name of the President of the United States of America, and if they issue;" and, by inserting after the word "executions," in the second line of the second section, the words "except their style," it passed in the negative.

On motion that the Senate do recede from the first amendment, it passed in the negative.

On motion that the Senate do adhere to the first amendment, a motion was made to postpone this in order to reconsider the first proposition; and it passed in the affirmative.

And on motion to adopt the proposed amendment to the first amendment made by the House of Representatives on the bill, it passed in the affirmative.

A message from the House of Representatives brought up the bill for establishing a permanent seat of Government; and informed the Senate, that the House had concurred in the amendments thereto, with the following amendment: "And provided that nothing herein contained shall be construed to affect the operation of the laws of Pennsylvania, within the district ceded and accepted, until Congress shall otherwise provide by law."

Mr. READ, on behalf of the committee appointed to consider the bill making appropriations for the service of the present year, reported amendments.

Ordered, That the report of the committee be postponed, and that this bill have its third reading at this time.

Resolved, That this bill do pass, with the amendments reported by the committee.

A message from the House of Representatives informed the Senate that the House of Representatives had agreed to the amendment

SEPTEMBER, 1789.]

Proceedings.

[SENATE.]

to the amendment to a bill to regulate process in the courts of the United States; also to the amendments to the bill to explain and amend an act for registering and clearing vessels, regulating the coasting trade, and for other purposes; also, in the amendments proposed to the bill making appropriations for the service of the present year.

The Senate proceeded to the consideration of the amendment proposed by the House of Representatives to the amendment of the Senate to the bill to establish the seat of Government of the United States.

On motion that the further consideration of this bill be postponed to the next session of Congress, it passed in the affirmative.

TUESDAY, September 29.

The following communications from the President were received by Mr. Jay:

Gentlemen of the Senate:

His Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and members of the General Congress of the United States of North America, announces the much lamented death of his son, the Dauphin. The generous conduct of the French monarch and nation towards this country renders every event that may affect his or their prosperity interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction which a loss so much to be regretted must have occasioned, both to him and to them.

GEO. WASHINGTON.

September 29.

Gentlemen of the Senate:

Having been yesterday informed by a joint committee of both Houses of Congress that they had agreed to a recess, to commence this day, and to continue until the first Monday of January next, I take the earliest opportunity of acquainting you, that, considering how long and laborious this session has been, and the reasons which, I presume, have produced this resolution, it does not appear to me expedient to recommend any measures to their consideration at present, or now to call your attention, gentlemen, to any of those matters in my department which require your advice and consent, and yet remain to be despatched.

GEO. WASHINGTON.

September 29, 1789.

A message from the House of Representatives informed the Senate that the House had concurred in all the amendments to the bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned, except the seventh, to which they had disagreed.

The Senate proceeded to consider their seventh amendment disagreed to by the House of Representatives on the bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the

resolves of the United States in Congress assembled, and for other purposes therein mentioned; and,

Resolved, To insist on the said seventh amendment.

Ordered, That the Secretary do acquaint the House of Representatives herewith.

The Senate proceeded to the third reading of the bill to allow the Baron de Glaubeck the pay of a captain in the army of the United States.

Resolved, That this bill do pass.

A message from the House of Representatives informed the Senate that the House of Representatives had passed the following resolve, to which the concurrence of the Senate was requested:

Ordered, That it shall be the duty of the Secretary of the Senate and Clerk of the House, at the end of each session, to send a printed copy of the journals thereof, respectively, to the supreme Executives and to each branch of the Legislature of every State; it also informed the Senate that the House of Representatives had receded from their disagreement to the seventh amendment of the Senate to a bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned; and that the House had passed the bill to allow the Baron de Glaubeck the pay of a captain in the army of the United States.

The Senate proceeded to consider the last recited order of the House of Representatives.

Resolved, That the Senate do concur therein.

A message from the House of Representatives informed the Senate that the House of Representatives had finished the business of the session, and were ready to adjourn, agreeably to the order of the two Houses of Congress.

The Senate entered on executive business.

They confirmed the appointment of William Carmichael, as Chargé des Affaires from the United States of America to the court of Spain; and, also, a number of officers of the army; which nominations differ from the existing arrangement only in the following cases, to wit:

Lieutenant Erkuries Beatty promoted to a vacant captaincy in the infantry; Ensign Edward Spear promoted to a vacant lieutenantcy of artillery; Jacob Melcher, who has been serving as a volunteer, to be an ensign, vice Benjamin Lawrence, who was appointed nearly three years past, and has never been mustered or joined the troops; which were all confirmed.

The business of the session being brought to a close, the Vice President, agreeably to the resolve of the two Houses on the 26th instant, adjourned the Senate to the first Monday in January next, then to meet at the City Hall in New York.

HISTORY
OF
THE PROCEEDINGS AND DEBATES
OF
THE HOUSE OF REPRESENTATIVES
OF THE
UNITED STATES.

AT THE FIRST SESSION OF THE FIRST CONGRESS, BEGUN AT THE CITY OF
NEW YORK, MARCH 4, 1789.

WEDNESDAY, March 4, 1789.

This being the day fixed for the meeting of the new Congress, the following members of the House of Representatives appeared and took their seats, viz:

From Massachusetts, GEORGE THATCHER, FISHER AMES, GEORGE LEONARD, and ELBRIDGE GERRY.

From Connecticut, BENJAMIN HUNTINGTON, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

From Pennsylvania, FREDERICK AUGUSTUS MUHLENBERG, THOMAS HARTLEY, PETER MUHLENBERG, and DANIEL HEISTER.

From Virginia, ALEXANDER WHITE.

From South Carolina, THOMAS TUDOR TUCKER.

A quorum of the members not being present, the House adjourned until to-morrow at eleven o'clock.

THURSDAY, March 5.

Several other members attended, viz: from New Hampshire, NICHOLAS GILMAN; from Massachusetts, BENJAMIN GOODHUE; from Connecticut, ROGER SHERMAN and JONATHAN STURGES; and from Pennsylvania, HENRY WYNKOOP; and no other members arriving, a quorum not being present, the House adjourned, from day to day, until the 14th instant.

SATURDAY, March 11.

The following members took their seats, to wit: JAMES MADISON, junior, JOHN PAGE, and RICHARD BLAND LEE, from Virginia.

A quorum not being yet present, the House adjourned, from day to day, until the 17th instant.

TUESDAY, March 17.

SAMUEL GRIFFIN, from Virginia, took his seat.

WEDNESDAY, March 18.

ANDREW MOORE, from Virginia, took his seat. No other member appearing, the House adjourned, from day to day, until the 23d instant.

MONDAY, March 23.

The following members appeared, to wit:—

From New Jersey, ELIAS BOUDINOT; and from Maryland, WILLIAM SMITH.

No additional member appeared on the 24th.

WEDNESDAY, March 25.

JONATHAN PARKER, from Virginia, appeared and took his seat.

No additional member arrived until the 30th instant.

MONDAY, March 30.

GEORGE GALE, from Maryland, and THEODORICK BLAND, from Virginia, appeared and took their seats.

No additional member on the 31st instant.

WEDNESDAY, April 1.

Two other members appeared, to wit: JAMES SCHUREMAN, from New Jersey, and THOMAS SCOTT, from Pennsylvania, who forming a quorum of the whole body, it was, on motion:

Resolved, That this House will proceed to the choice of a Speaker by ballot.

The House accordingly proceeded to ballot for a Speaker, when it was found that a majority of the votes were in favor of FREDERICK AUGUSTUS MUHLENBERG, one of the Representatives from Pennsylvania. Whereupon, Mr. MUHLENBERG was conducted to the chair, from whence he made his acknowledgments to the House for so distinguished an honor.

The House then proceeded in the same manner to the appointment of a Clerk, when it was found that Mr. JOHN BECKLEY was elected.

H. OF R.]

Proceedings.

[APRIL, 1789.]

On motion,

Ordered, That the members do severally deliver in their credentials at the Clerk's table.

THURSDAY, April 2.

LAMBERT CADWALADER, from New Jersey, appeared and took his seat.

On motion,

Ordered, That a committee be appointed to prepare and report such standing rules and orders of proceeding as may be proper to be observed in this House. And the following members were named on said committee, to wit: MESSRS. GILMAN, GERRY, WADSWORTH, BOUDINOT, HARTLEY, SMITH, LEE, TUCKER, MADISON, SHERMAN, and GOODHUE.

Resolved, That a door-keeper and assistant door-keeper be appointed for the service of this House.

On motion,

Ordered, That it be an instruction to the committee appointed to prepare and report such standing rules and orders of proceeding as may be proper to be observed in this House, that they also report the duty and services of a sergeant-at-arms, or other proper officer for enforcing the orders of the House.

FRIDAY, April 3.

GEORGE CLYMER, from Pennsylvania, appeared and took his seat.

SATURDAY, April 4.

GEORGE PARTRIDGE, from Massachusetts, appeared and took his seat.

The House proceeded to the election of a door-keeper, and assistant-doorkeeper; when Gifford Dudley was chosen to the former, and Thomas Claxton to the latter office.

MONDAY, April 6.

DANIEL CARROLL, from Maryland, appeared and took his seat.

Ordered, That leave be given to bring in a bill to regulate the taking the oath or affirmation prescribed by the sixth article of the Constitution; and that MESSRS. WHITE, MADISON, TRUMBULL, GILMAN, and CADWALADER, do prepare and bring in the same.

On motion,

Resolved, That the form of the oath to be taken by the members of this House, as required by the third clause of the sixth article of the Constitution of Government of the United States, be as followeth, to wit: "I, A B, a Representative of the United States in the Congress thereof, do solemnly swear (or affirm, as the case may be) in the presence of Almighty GOD, that I will support the Constitution of the United States. So help me God."

A message from the Senate, by Mr. ELLSWORTH:

Mr. Speaker: I am charged by the Senate to inform this House, that a quorum of the Senate is now formed; that a President is elected for the sole pur-

pose of opening the certificates and counting the votes of the electors of the several States, in the choice of a President and Vice President of the United States; and that the Senate is now ready in the Senate chamber, to proceed, in presence of this House, to discharge that duty. I have it also in further charge to inform this House that the Senate has appointed one of its members to sit at the Clerk's table to make a list of the votes as they shall be declared, submitting it to the wisdom of this House to appoint one or more of its members for the like purpose.

On motion,

Resolved, That Mr. Speaker, attended by the House, do now withdraw to the Senate chamber, for the purpose expressed in the message from the Senate; and that Mr. PARKER and Mr. HEISTER be appointed, on the part of this House, to sit at the clerk's table with the member of the Senate, and make a list of the votes as the same shall be declared.

Mr. Speaker accordingly left the chair, and, attended by the House, withdrew to the Senate chamber, and after some time returned to the House.

Mr. Speaker resumed the chair.

Mr. PARKER and Mr. HEISTER then delivered in at the Clerk's table a list of the votes of the electors of the several States in the choice of a President and Vice President of the United States, as the same were declared by the President of the Senate, in the presence of the Senate and of this House, which was ordered to be entered on the Journal.*

On motion,

Ordered, That a message be sent to the Senate, to inform them that it is the desire of this House that the notifications of the election of the President and Vice President of the United States should be made by such persons, and in such manner, as the Senate shall be pleased to direct; and that Mr. MADISON do communicate the said message.

TUESDAY, April 7.

The Speaker laid before the House a letter from the Mayor of the city of New York, covering certain resolutions of the Mayor, Aldermen, and Commonalty of the said city, appropriating the City Hall for the accommodation of the General Government of the United States; which were read, and ordered to lie on the table.

Mr. BOUDINOT, from the committee appointed to prepare such rules and orders of proceeding as may be proper to be observed in this House, made the following report:—

"The committee to whom it was referred to prepare such standing rules and orders of proceeding as may be proper to be observed in this House, have, according to order, prepared the same, and agreed to the following report: •

Resolved, That it is the opinion of this committee that the rules and orders following are proper to be

* For this list see the Senate Journal.

APRIL, 1789.]

Proceedings.

[H. OF R.]

established as the standing rules and orders of this House, to wit:

I.—*Touching the duty of the Speaker.*

He shall take the chair every day at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order, and, on the appearance of a quorum, shall cause the journal of the preceding day to be read.

He shall preserve decorum and order; may speak to points of order in preference to other members, rising from his seat for that purpose, and shall decide questions of order, subject to an appeal to the House by any two members.

He shall rise to put a question, but may state it sitting.

Questions shall be distinctly put in this form, viz: "As many as are of opinion that—(as the question may be) say Aye." And, after the affirmative voice is expressed—"As many as are of a contrary opinion, say No."

If the Speaker doubts, or a division be called for, the House shall divide; those in the affirmative going to the right, and those in the negative to the left of the chair. If the Speaker still doubt, or a count be required, the Speaker shall name two members, one from each side, to tell the numbers in the affirmative; which being reported, he shall then name two others, one from each side, to tell those in the negative; which being also reported, he shall rise and state the decision to the House.

The Speaker shall appoint committees, unless it be determined by the House that the committee shall consist of more than three members, in which case the appointment shall be by ballot of the House.

In all cases of ballot by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal, and in case of such equal division, the question shall be lost.

When the House adjourns, the members shall keep their seats until the Speaker go forth; and then the members shall follow.

II.—*Of Decorum and Debate.*

When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to Mr. Speaker.

If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member called to order shall immediately sit down, unless permitted to explain, and the House shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House.

When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

No member shall speak more than twice to the same question, without leave of the House; nor more than once, until every member choosing to speak shall have spoken.

Whilst the Speaker is putting any question, or addressing the House, none shall walk out of or across the House; nor either in such case, or when a member is speaking, shall entertain private discourse, or read any printed book or paper; nor whilst a member is speaking, shall pass between him and the chair.

No member shall vote on any question, in the event of which he is immediately and particularly interested; or in any other case where he was not present when the question was put.

Every member who shall be in the House when a question is put, shall vote on the one side or the other, unless the House, for special reasons, shall excuse him.

When a motion is made and seconded, it shall be stated by the Speaker; or, being in writing, it shall be handed to the Chair, and read aloud by the Clerk before debated.

Every motion shall be reduced to writing, if the Speaker or any member desire it.

After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in possession of the House, but may be withdrawn at any time before a decision or amendment.

When a question is under debate, no motion shall be received, unless to amend it, to commit it for the previous question, or to adjourn.

A motion to adjourn shall be always in order, and shall be decided without debate.

The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by five members; and, until it is decided, shall preclude all amendment and further debate of the main question.

On a previous question no member shall speak more than once without leave.

Any member may call for the division of a question, where the sense will admit of it.

A motion for commitment, until it is decided, shall preclude all amendment of the main question.

Motions and reports may be committed at the pleasure of the House.

No new motion or proposition shall be admitted, under color of amendment, as a substitute for the motion or proposition under debate.

Committees consisting of more than three members shall be ballotted for by the House; if, upon such ballot, the number required shall not be elected by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail; and in case a greater number than are required to compose or complete the committee shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

In all other cases of ballot than for committees, a majority of the votes given shall be necessary to an election; and where there shall not be such majority on the first ballot, the ballot shall be repeated until a majority be obtained.

In all cases where others than members of the House may be eligible, there shall be a previous nomination.

If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member who has spoken twice on the day preceding shall be permitted again to speak without leave.

Every order, resolution, or vote, to which the concurrence of the Senate shall be necessary, shall be read to the House, and laid on the table, on a day preceding that in which the same shall be moved, unless the House shall otherwise expressly allow.

Petitions, memorials, and other papers addressed to the House, shall be presented through the Speaker, or by a member in his place, and shall not be debated or decided on the day of their first being read, unless where the House shall direct otherwise; but shall lie on the table, to be taken up in the order they were read.

Any fifteen members (including the Speaker, if there be one,) shall be authorized to compel the attendance of absent members.

Upon calls of the House, or in taking the ayes and noes on any question, the names of the members shall be called alphabetically.

III.—Of Bills.

Every bill shall be introduced by motion for leave, or by an order of the House on the report of a committee; and, in either case, a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice, at least, shall be given of the motion to bring in a bill; and every such motion may be committed.

Every bill shall receive three several readings in the House previous to its passage; and all bills shall be despatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day without special order of the House.

The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be, "Shall the bill be rejected?" If no opposition be made, or the question to reject be negatived, the bill shall go to its second reading without a question.

Upon the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment, and, if committed, then a question shall be whether to a Select Committee, or to a Committee of the whole House; if to a Committee of the whole House, the House shall determine on what day. But if the bill be ordered to be engrossed, the House shall appoint a day when it shall be read the third time. After commitment, and a report thereof to the House, a bill may be re-committed, or at any time before its passage.

All bills ordered to be engrossed shall be executed in a fair round hand.

The enacting style of bills shall be, "*Be it enacted by the Senators and Representatives of the United States in Congress assembled.*"

When a bill shall pass, it shall be certified by the Clerk, noting the day of its passing at the foot thereof. No bill amended by the Senate shall be committed.

IV.—Of Committees of the whole House.

It shall be a standing order of the day, throughout the session, for the House to resolve itself into a Committee of the whole House on the state of the Union.

In forming a Committee of the whole House, the Speaker shall leave his chair, and a Chairman to preside in committee shall be appointed.

Upon bills committed to a Committee of the whole House, the bill shall be first read throughout

by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered. The body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk, on a separate paper, as the same shall be agreed to by the committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses, before a question to engross it be taken.

All amendments made to an original motion in committee shall be incorporated with the motion, and so reported.

All amendments made to a report committed to a Committee of the Whole, shall be noted and reported as in the case of bills.

All questions, whether in committee or in the House, shall be propounded in the order they were moved, except that, in filling up blanks, the largest sum and longest day shall be first put.

The rules of proceeding in the House shall be observed in committee, so far as they may be applicable, except that limiting the times of speaking."

On motion,

Ordered, That the Chief Justice of the State of New York be requested to attend this House, at the hour of its meeting to-morrow, for the purpose of administering to the Speaker, and other members of the House, the oath required by the constitution, in the form agreed to yesterday.

And then the House adjourned until to-morrow morning, eleven o'clock.

WEDNESDAY, April 8.

Two other members, to wit: JNO. LAWRENCE, from New York, and THOMAS FITZSIMONS, from Pennsylvania, appeared and took their seats.

The Chief Justice of the State of New York attended, agreeably to the order of yesterday, and administered the oath required by the constitution, in the form agreed to on Monday last, first to Mr. Speaker in his place, and then to the other members of the House present, to wit: Fisher Ames, Elias Boudinot, Theodorick Bland, Lambert Cadwalader, George Clymer, Daniel Carroll, Thomas Fitzsimons, Nicholas Gilman, Benjamin Goodhue, Elbridge Gerry, George Gale, Samuel Griffin, Benjamin Huntington, Thomas Hartley, Daniel Heister, George Leonard, Richard Bland Lee, John Lawrence, Peter Muhlenberg, James Madison, Jun., Andrew Moore, George Partridge, John Page, Josiah Parker, Jonathan Sturges, Roger Sherman, James Schureman, William Smith, Thomas Scott, George Thatcher, Thomas Tudor Tucker, Henry Wynkoop, and Alexander White.

DUTIES ON IMPOSTS.

On motion, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair.

Mr. MADISON. I take the liberty, Mr. Chairman, at this early stage of the business, to in-

APRIL 9, 1789.]

Duties on Imports.

[H. OF R.]

introduce to the committee a subject, which appears to me to be of the greatest magnitude; a subject, sir, that requires our first attention, and our united exertions.

No gentleman here can be unacquainted with the numerous claims upon our justice; nor with the impotency which prevented the late Congress of the United States from carrying into effect the dictates of gratitude and policy.

The union, by the establishment of a more effective government, having recovered from the state of imbecility that heretofore prevented a performance of its duty, ought, in its first act, to revive those principles of honor and honesty that have too long lain dormant.

The deficiency in our Treasury has been too notorious to make it necessary for me to animadvert upon that subject. Let us content ourselves with endeavoring to remedy the evil. To do this a national revenue must be obtained; but the system must be such a one, that, while it secures the object of revenue, it shall not be oppressive to our constituents. Happy it is for us that such a system is within our power; for I apprehend that both these objects may be obtained from an impost on articles imported into the United States.

In pursuing this measure, I know that two points occur for our consideration. The first respects the general regulation of commerce; which, in my opinion, ought to be as free as the policy of nations will admit. The second relates to revenue alone; and this is the point I mean more particularly to bring into the view of the committee.

Not being at present possessed of sufficient materials for fully elucidating these points, and our situation admitting of no delay, I shall propose such articles of regulations only as are likely to occasion the least difficulty.

The propositions made on this subject by Congress in 1783, having received, generally, the approbation of the several States of the Union, in some form or other, seem well calculated to become the basis of the temporary system, which I wish the committee to adopt. I am well aware that the changes which have taken place in many of the States, and in our public circumstances, since that period, will require, in some degree, a deviation from the scale of duties then affixed: nevertheless, for the sake of that expedition which is necessary, in order to embrace the spring importations, I should recommend a *general* adherence to the plan.

This, sir, with the addition of a clause or two on the subject of tonnage, I will now read, and, with leave, submit it to the committee, hoping it may meet their approbation, as an expedient rendered eligible by the urgent occasion there is for the speedy supplies of the federal treasury, and a speedy rescue of our trade from its present anarchy.

Resolved, As the opinion of this committee, that the following duties ought to be levied on goods, wares, and merchandise, imported into the United States, viz:

On rum, per gallon,—of a dollar; on all other spirituous liquors—; on molasses—; on Madeira wine—; on all other wines—; on common bohea teas per lb.—; on all other teas—; on pepper—; on brown sugars—; on loaf sugars—; on all other sugars—; on cocoa and coffee—on all other articles—per cent. on their value at the time and place of importation.

That there ought, moreover, to be levied on all vessels in which goods, wares, or merchandises shall be imported, the duties following, viz. On all vessels built within the United States, and belonging wholly to citizens thereof, at the rate of—per ton.

On all vessels belonging wholly to the subjects of Powers with whom the United States have formed treaties, or partly to the subjects of such Powers, and partly to citizens of the said States, at the rate of—

On all vessels belonging wholly or in part to the subjects of other Powers, at the rate of—

Mr. BOUDINOT.—The necessity of adopting some measure, like the one proposed by the honorable gentleman from Virginia, is too apparent to need any argument in its support. The plan which he has submitted to the committee appears to be simple and sufficiently complete for the present purpose; I shall, therefore, for my own part, be content with it, and shall move you, sir, that the blanks be filled up in the manner they were recommended to be charged by Congress in 1783. My reason for this is, that those sums have been approved by the Legislatures of every State represented on this floor, and of consequence must have been agreeable to the sense of our constituents at that time; and, I believe, nothing since has intervened to give us reason to believe they have made an alteration in their sentiments.

Mr. WHITE.—I wish filling up the blanks may be deferred until the business is more matured; nor will this be attended with a loss of time, because the forms necessary to complete a bill will require so much as to give gentlemen leisure to consider the proper quantum of impost to be laid, as well on the enumerated articles as on the common mass of merchandise rated *ad valorem*; for, as was hinted by my colleague, something may have occurred to render an alteration in the sums recommended in 1783 in some degree necessary; and if so, time will be given to consider the subject with more attention in the progress of the bill, and no unnecessary delay can arise; wherefore, I move you, sir, that the committee now rise, report progress, and ask leave to sit again.

Mr. MADISON.—I do not consider it at this moment necessary to fill up the blanks, nor had I it in contemplation at the time I offered the propositions. I supposed that most of the gentlemen would wish time to think upon the principles generally, and upon the articles particularly; while others, who, from their situation and advantages in life, are more conversant on this

H. OF R.]

Duties on Imports.

[APRIL 9, 1789.]

subject, may be induced to turn their particular attention to a subject they are well able to do justice to, and to assist the committee with their knowledge and information; unless such gentlemen are now prepared and disposed to proceed in filling up the blanks, I shall second the motion for the committee's rising.

MR. PARKER.—As it is impossible that gentlemen should be prepared to go into the immediate discussion of my worthy colleague's motion for raising an impost, I shall heartily concur in the motion for the committee's rising.

The question on rising being put, was agreed to; when,

MR. SPEAKER resumed the chair, and Mr. PAGE reported progress.

Adjourned until to-morrow.

THURSDAY, April 9.

EGBERT BENSON, from New York, and ISAAC COLES, from Virginia, appeared and took their seats.

MR. BOUDINOT, from the committee appointed to prepare rules for the government of the House, made a further report; which, being read, was ordered to lie on the table.

MR. LEONARD and Mr. WYNKOOP asked and obtained leave of absence.

The SPEAKER laid before the House a letter from OLIVER ELLSWORTH, Esq. a member of the Senate, stating the appointment of a committee of that House to confer with a committee to be appointed on the part of this House, in preparing a system of rules to govern the two Houses in cases of conference, and to regulate the appointment of Chaplains.

Whereupon, MESSRS. BOUDINOT, SHERMAN, TUCKER, MADISON, and BLAND, were elected by ballot for that purpose.

DUTIES ON IMPORTS.

The House again resolved itself into a committee of the whole on the State of the Union, Mr. PAGE in the Chair.

MR. LAWRENCE.—The subject of the proposition laid before the committee by the honorable gentleman from Virginia, (MR. MADISON,) will now, I presume, Mr. Chairman, recur for our deliberation. I imagine it to be of considerable importance, not only to the United States, but to every individual of the Union. The object of the revenue alone would place it in this situation, and in this light I mean now to consider it. If I am not mistaken, the honorable mover of the plan viewed it as a temporary system, particularly calculated to embrace the spring importations; therefore, in order to discover whether the mode laid before you is well calculated to answer this end, it will be proper to consider its operation. The plan consists of certain distinct propositions; one part is intended to lay a specific sum on enumerated articles, the other a certain per cent. ad valorem: perhaps simplifying the system may be pro-

ductive of happy consequences, and it strikes me that confusion and perplexity will be best avoided by such a measure; hence, it may be proper to lay a duty at a certain rate per cent. on the value of all articles, without attempting an enumeration of any; because, if we attempt to specify every article, it will expose us to a question which must require more time than can be spared, to obtain the object that appears to be in the view of the committee. A question, I say, sir, will arise, whether the enumeration embraces every article that will bear a duty, and whether the duty to be affixed is the proper sum the article is able to bear. On this head, sir, I believe that the committee have not materials sufficient to form even the basis of the system, beside being wholly incompetent to determine the rate most advantageous to the article of revenue, and most agreeable to the interest and convenience of our constituents. Knowledge on these points can only be obtained by experience; but hitherto we have had none, at least of a general nature. The partial regulations made by the States, throw but little light on the subject, and its magnitude ought to induce us to use the greatest degree of caution.

A system of the nature which I hinted at, will, in my opinion, be not only less complex and difficult in its formation, but likewise easier and more certain in its operation; because the more simple a plan of revenue is, the easier it becomes understood and executed: and it is, sir, an earnest wish of mine, that all our acts should partake of this nature. Moreover, by adopting the plan I have mentioned, you will embrace the spring importation and give time for digesting and maturing one upon more perfect principles; and, as the proposed system is intended to be but a temporary one, that I esteem to be best which requires the least time to form it.

With great deference I have submitted these sentiments to the committee, as what occurred to me to be the better plan of the two; though, I must own, it is a subject on which I am not so fully informed as I wish to be, and therefore hope the indulgence of the committee in considering it.

MR. FITZSIMONS.—I observe, Mr. Chairman, by what the gentlemen have said, who have spoken on the subject before you, that the proposed plan of revenue is viewed by them as a temporary system, to be continued only until proper materials are brought forward and arranged in more perfect form. I confess, sir, that I carry my views on this subject much further; that I earnestly wish such a one which, in its operation, will be some way adequate to our present situation, as it respects our agriculture, our manufactures, and our commerce.

An honorable gentleman (MR. LAWRENCE) has expressed an opinion that an enumeration of articles will operate to confuse the business.

APRIL 9, 1789.]

Duties on Imports.

[H. OF R.]

So far am I from seeing it in this point of view, that, on the contrary, I conceive it will tend to facilitate it. Does not every gentleman discover that, when a particular article is offered to the consideration of the committee, he will be better able to give his opinion upon it than on an aggregate question? Because the partial and convenient impost laid on such article by individual States is more or less known to every member in the committee. It is also well known that the amount of such revenue is more accurately calculated and better to be relied on, because of the certainty of collection, less being left to the officers employed in bringing it forward to the public treasury. It being my opinion that an enumeration of articles will tend to clear away difficulties, I wish as many to be selected as possible; for this reason I have prepared myself with an additional number, which I wish subjoined to those already mentioned in the motion on your table; among these are some calculated to encourage the productions of our country, and protect our infant manufactures; besides others tending to operate as sumptuary restrictions upon articles which are often termed those of luxury. The amendment I mean to offer is in these words: I shall read it in my place, and, if I am seconded, hand it to you for the consideration of the committee.

Resolved, As the opinion of this committee, that the following duties ought to be laid on goods, wares, and merchandise imported into the United States, to wit:

[The articles enumerated for duty were beer, ale, and porter; beef, pork, butter, candles, cheese, soap, cider, boots, steel, cables, cordage, twine or pack thread, malt, nails, spikes, tacks, or brads; salt, tobacco, snuff, blank books, writing, printing, and wrapping paper; pasteboard, cabinet ware; buttons; saddles; gloves, hats, millinery, castings of iron, slit, or rolled iron; leather, shoes, slippers, and golo shoes; coach, chariot, and other four wheel carriages; chaise, solo, or other two wheel carriages; nutmegs, cinnamon, cloves, raisins, figs, currants, almonds.]

This motion was seconded by Mr. SCHUREMAN.

Mr. WHITE.—I shall not pretend to say that there ought not to be specific duties laid upon every one of the articles enumerated in the amendment just offered; but, I am inclined to think, that entering so minutely into the detail, will consume too much of our time, and thereby lose us a greater sum than the additional impost on the last mentioned articles will bring in; because there may be doubts whether many of them are capable of bearing an increased duty; but this, sir, is not the case with those mentioned in the motion of my colleague: for I believe it will be readily admitted on all sides, that such articles as rum, wines, and sugar, have the capacity of bearing an additional duty besides a per cent. ad valorem.

His system appears to be simple, and its principles, I conceive, are such as gentlemen are agreed upon, consequently a bill founded thereupon would pass this House in a few days; the operation of the law would commence early, and the treasury be furnished with money to answer the demands upon it. This law would continue until mature deliberation, ample discussion, and full information, enabled us to complete a perfect system of revenue: for, in order to charge specified articles of manufacture, so as to encourage our domestic ones, it will be necessary to examine the present state of each throughout the Union. This will certainly be a work of labor and time, and will perhaps require more of each than the committee have now in their power. Let us, therefore, act upon the principles which are admitted, and take in the most material and productive articles, leaving to a period of more leisure and information a plan to embrace the whole.

Mr. TUCKER.—In common with the other gentlemen on this floor, I consider the subject which engages our present deliberations as of very great importance as it relates to our agriculture, manufactures, and commerce; I also consider it of consequence that we should give full satisfaction to our constituents by our decision, be that whatever it may; and I think this most likely to be effected by establishing a permanent regulation, although, in the interim, a temporary system may be expedient. I wish, also, in the outset of this business, to attend to the interests of every part of the Union; this, I take it, can only be done by collecting the opinion of the members from the several States. At present, I look upon it as impracticable, because the representation from the States is not upon an equal footing; we ought to have a much fuller House than we have before we enter on the subject in its fullest extent. By looking around me, I perceive there is no representative, except myself, southward of Virginia; and whatever my opinion may be with respect to the propositions before you, I must own that I wish to be acquainted with that of my colleagues; besides, I acknowledge myself incompetent to decide at this time on a subject of such magnitude; but, even if I had more competency, I should hesitate, without I could consult with the members whose interests are inseparable from that part of the Union which I have the honor to represent.

I was in hopes, sir, that every thing which the committee had in contemplation would be secured by possessing a general impost, whilst a fuller consideration of the subject might be deferred to a future day, when the committee would have more leisure and information to enable them to determine and digest a plan capable of giving more general satisfaction.

I have no objection, sir, to go so far into the matter as to pass a law to collect an impost ad valorem, whilst it is understood to be but a temporary system; and likewise to lay a duty

H. of R.]

Duties on Imports.

[APRIL 9, 1793.]

on such enumerated articles of importation as have been heretofore considered as proper ones by the Congress of 1783. So far, sir, the matter may be plain to us, and we run no hazard of doing any thing which may give dissatisfaction to any State in the Union. The duties proposed by the Congress of 1783 were, I believe, five per cent. on the value of all goods imported, and an additional duty on a few enumerated articles. This recommendation of Congress has been so universally received by the several States, that I think we run no risk of giving umbrage to any by adopting the plan; but the other articles, which have just been offered, are, I apprehend, to many of us so novel, and, at the same time, so important, as to make it hard to determine the propriety of taxing them in a few hours, or even in a few days.

I wish, with the honorable gentleman from New York, that the system we now adopt be considered as a temporary one, securing a duty only upon such articles of importation as are generally agreed to be proper; and, on this account, I wish the article of tonnage, mentioned in the first list of propositions, to be postponed; because, with respect to it, the different States are not upon an equal footing. It appears evidently to bear harder upon some States than upon others. In some they wish a high duty upon tonnage, even so high as to preclude the admission of foreign vessels altogether, having sufficient to carry on their whole trade within themselves. Others again wish more moderate duties, inasmuch as it may be convenient to employ foreign shipping in their commerce; whilst some others wish only such duty to be laid as to answer the sole purpose of revenue, being constrained, for want of vessels of their own, to employ foreigners in the transportation of their productions, which productions must eventually pay every charge of this nature.

I do not, sir, at this time, wish to enter into the merits of this subject; but just to state what I conceive to be the views and interests of the several States, in order that gentlemen may judge how far it would be prudent at this time to take a decisive step in matters so replete with difficulty as we see this to be, in reconciling the various and adverse interests of the Union, especially when it is considered that the vote of the committee, if carried into execution, will not place the Eastern and Southern States upon an equal footing.

In order to preserve the peace and tranquility of the Union, it will become necessary that mutual deference and accommodation should take place on subjects so important as the one I have first touched upon. And, in order that this may take place, it is proper that gentlemen deliver their sentiments with freedom and candor. I have done this in a manner which I conceived it my duty to do, and shall just repeat that I wish to confine the question to that part of the motion made by the honorable gentleman from Virginia, (Mr. MADISON) which respects laying a general impost on the value of all goods im-

ported, and the small enumeration which precedes it: if it is in contemplation to do otherwise, I shall be under the necessity of moving for a division of the question. If I should lose this, and a high tonnage duty be insisted on, I shall be obliged to vote against the measure altogether; when, if the business is conducted on principles of moderation, I shall give my vote for it to a certain degree.

Where different interests prevail, it is to be supposed adverse sentiments will arise, and the gentlemen from those States which are interested in having a high tonnage duty laid on foreign shipping will naturally be more favorably inclined to a corresponding measure, than those from other States whose interest it would be to have little or no duty at all. Hence all that can be expected, is such a degree of accommodation as to insure the greatest degree of general good, with the least possible evil to the individuals of the political community.

Mr. HARTLEY.—The business before the House is certainly of very great importance, and worthy of strict attention. I have observed, sir, from the conversation of the members, that it is in the contemplation of some to enter on this business in a limited and partial manner, as it relates to revenue alone; but, for my own part, I wish to do it on as broad a bottom as is at this time practicable. The observations of the honorable gentleman from South Carolina, (Mr. TUCKER) may have weight in some future stage of the business, for the article of tonnage will not probably be determined for several days, before which time his colleagues may arrive and be consulted in the manner he wishes; but surely no argument, derived from that principle, can operate to discourage the committee from taking such measures as will tend to protect and promote our domestic manufactures.

If we consult the history of the ancient world, we shall see that they have thought proper, for a long time past, to give great encouragement to the establishment of manufactures, by laying such partial duties on the importation of foreign goods, as to give the home manufactures a considerable advantage in the price when brought to market. It is also well known to this committee, that there are many articles that will bear a higher duty than others, which are to remain in the common mass, and be taxed with a certain impost ad valorem. From this view of the subject, I think it both politic and just that the fostering hand of the General Government should extend to all those manufactures which will tend to national utility. I am therefore sorry that gentlemen seem to fix their mind to so early a period as 1783; for we very well know our circumstances are much changed since that time: we had then but few manufactures among us, and the vast quantities of goods that flowed in upon us from Europe, at the conclusion of the war, rendered those few almost useless; since then we have been forced by necessity, and various other causes, to increase our domestic manufactures to such a degree as

APRIL 9, 1789.]

Duties on Imports.

[H. OF R.]

to be able to furnish some in sufficient quantity to answer the consumption of the whole Union, while others are daily growing into importance. Our stock of materials is, in many instances, equal to the greatest demand, and our artisans sufficient to work them up even for exportation. In these cases, I take it to be the policy of every enlightened nation to give their manufactures that degree of encouragement necessary to perfect them, without oppressing the other parts of the community; and under this encouragement, the industry of the manufacturer will be employed to add to the wealth of the nation.

Many of the articles in the list proposed by my worthy colleague will have this tendency; and therefore I wish them to be received and considered by the committee; if sufficient information cannot be obtained, as to the circumstances of any particular manufacture, so as to enable the committee to determine a proper degree of encouragement, it may be relinquished; but at present it will, perhaps, be most advisable to receive the whole.

MR. MADISON.—From what has been suggested by the gentlemen that have spoken on the subject before us, I am led to apprehend we shall be under the necessity of travelling further into an investigation of principles than what I supposed would be necessary, or had in contemplation when I offered the propositions before you.

It was my view to restrain the first essay on this subject principally to the object of revenue, and make this rather a temporary expedient than any thing permanent. I see, however, that there are strong exceptions against deciding immediately on a part of the plan, which I had the honor to bring forward, as well as against an application to the resources mentioned in the list of articles just proposed by the gentleman from Pennsylvania.

I presume, that, however much we may be disposed to promote domestic manufactures, we ought to pay some regard to the present policy of obtaining revenue. It may be remarked also, that by fixing on a temporary expedient for this purpose, we may gain more than we shall lose by suspending the consideration of the other subject until we obtain fuller information of the state of our manufactures. We have at this time the strongest motives for turning our attention to the point I have mentioned; every gentleman sees that the prospect of our harvest from the spring importations is daily vanishing; and if the committee delay levying and collecting an impost until a system of protecting duties shall be perfected, there will be no importations of any consequence on which the law is to operate, because, by that time, all the spring vessels will have arrived. Therefore, from a pursuit of this policy, we shall suffer a loss equal to the surplus which might be expected from a system of higher duties.

I am sensible that there is great weight in the observation that fell from the honorable gentleman from South Carolina, (Mr. TUCKER)

that it will be necessary, on the one hand, to weigh and regard the sentiments of the gentlemen from the different parts of the United States; but, on the other hand, we must limit our consideration on this head, and, notwithstanding all the deference and respect we pay to those sentiments, we must consider the general interest of the Union; for this is as much every gentleman's duty to consider as is the local or State interest—and any system of impost that this committee may adopt must be founded on the principles of mutual concession.

Gentlemen will be pleased to recollect, that those parts of the Union which contribute more under one system than the other, are also those parts more thinly planted, and consequently stand most in need of national protection; therefore they will have less reason to complain of unequal burthens.

There is another consideration; the States that are most advanced in population, and ripe for manufactures, ought to have their particular interests attended to in some degree. While these States retained the power of making regulations of trade, they had the power to protect and cherish such institutions; by adopting the present constitution, they have thrown the exercise of this power into other hands: they must have done this with an expectation that those interests would not be neglected here.

I am afraid, sir, on the one hand, that if we go fully into a discussion of the subject, we shall consume more time than prudence would dictate to spare; on the other hand, if we do not develop it, and see the principles on which we mutually act, we shall subject ourselves to great difficulties. I beg leave, therefore, to state the grounds on which my opinion, with respect to the matter under consideration, is founded, namely, whether our present system should be a temporary or a permanent one? In the first place, I own myself the friend to a very free system of commerce, and hold it as a truth, that commercial shackles are generally unjust, oppressive, and impolitic; it is also a truth, that if industry and labor are left to take their own course, they will generally be directed to those objects which are the most productive, and this in a more certain and direct manner than the wisdom of the most enlightened legislature could point out. Nor do I think that the national interest is more promoted by such restrictions, than that the interest of individuals would be promoted by legislative interference directing the particular application of its industry. For example, we should find no advantage in saying, that every man should be obliged to furnish himself, by his own labor, with those accommodations which depend on the mechanic arts, instead of employing his neighbor, who could do it for him on better terms. It would be of no advantage to the shoemaker to make his own clothes, to save the expense of the tailor's bill, nor of the tailor to make his own shoes, to save the expense of procuring them from the shoemaker. It would be better policy to suffer each

H. of R.]

Duties on Imports.

[APRIL 9, 1789.]

of them to employ his talents in his own way. The case is the same between the exercise of the arts and agriculture—between the city and the country—and between city and town; each capable of making particular articles in abundance to supply the other: thus all are benefited by exchange, and the less this exchange is cramped by government, the greater are the proportions of benefit to each. The same argument holds good between nation and nation, and between parts of the same nation.

In my opinion, it would be proper also for gentlemen to consider the means of encouraging the great staple of America, I mean agriculture; which I think may justly be styled the staple of the United States, from the spontaneous productions which nature furnishes, and the manifest advantage it has over every other object of emolument in this country. If we compare the cheapness of our land with that of other nations, we see so decided an advantage in that cheapness, as to have full confidence of being unrivalled. With respect to the object of manufactures, other countries may and do rival us; but we may be said to have a monopoly in agriculture; the possession of the soil, and the lowness of its price, give us as much a monopoly in this case, as any nation or other parts of the world have in the monopoly of any article whatever; but, with this advantage to us, that it cannot be shared nor injured by rivalry.

If my general principle is a good one, that commerce ought to be free, and labor and industry left at large to find its proper object, the only thing which remains will be to discover the exceptions that do not come within the rule I have laid down. I agree with the gentleman from Pennsylvania, that there are exceptions, important in themselves, and which claim the particular attention of the committee. Although the freedom of commerce would be advantageous to the world, yet, in some particulars, one nation might suffer to benefit others, and this ought to be for the general good of society.

If America was to leave her ports perfectly free, and make no discrimination between vessels owned by her citizens and those owned by foreigners, while other nations make this discrimination, it is obvious that such policy would go to exclude American shipping altogether from foreign ports, and she would be materially affected in one of her most important interests. To this we may add another consideration, that by encouraging the means of transporting our productions with facility, we encourage the raising them: and this object, I apprehend, is likely to be kept in view by the General Government.

Duties laid on imported articles may have an effect which comes within the idea of national prudence. It may happen that materials for manufactures may grow up without any encouragement for this purpose; it has been the case in some of the States, but in others, regulations have been provided, and have succeeded in producing some establishments, which

ought not to be allowed to perish, from the alteration which has taken place: it would be cruel to neglect them and divert their industry to other channels: for it is not possible for the hand of man to shift from one employment to another, without being injured by the change. There may be some manufactures, which, being once formed, can advance towards perfection without any adventitious aid, while others, for want of the fostering hand of government, will be unable to go on at all. Legislative attention will therefore be necessary to collect the proper objects for this purpose, and this will form another exception to my general principle.

I observe that a sumptuary prohibition is within the view of some of the proposed articles, and forms another exception. I acknowledge that I do not, in general, think any great national advantage arises from restrictions passed on this head, because, as long as a distinction in point of value subsists, sumptuary duties, in some form or other, will prevail and take effect.

Another exception is, embargoes in time of war. These may necessarily occur and shackle the freedom of commerce; but the reasons for this are so obvious, that it renders any remark unnecessary.

The next exception that occurs, is one on which great stress is laid by some well informed men, and this with great plausibility. That each nation should have within itself the means of defence, independent of foreign supplies: that in whatever relates to the operations of war, no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark, and therefore it is proper for legislative attention. I am, though, well persuaded that the reasoning on this subject has been carried too far. The difficulties we experienced a few years ago, of obtaining military supplies, ought not to furnish too much in favor of an establishment which would be difficult and expensive; because our national character is now established and recognized throughout the world, and the laws of war favor national exertion more than intestine commotion, so that there is good reason to believe that when it becomes necessary, we may obtain supplies from abroad as readily as any other nation whatsoever. I have mentioned this, because I think I see something among the enumerated articles that seems to favor such a policy.

The impost laid on trade for the purpose of obtaining revenue may likewise be considered as an exception; so far, therefore, as revenue can be more conveniently and certainly raised by this than any other method, without injury to the community, and its operation will be in due proportion to the consumption, which consumption is generally proportioned to the circumstances of individuals, I think sound policy dictates to use this mean; but it will be necessary to confine our attention at this time peculiarly to the object of revenue, because the other subject involves some intricate questions, to unravel which we perhaps are not prepared.

APRIL 11, 1789.]

Duties on Imports.

[H. OF R.]

I have no objection to the committee's accepting the propositions offered by the gentleman from Pennsylvania, because so far as we can enumerate the proper objects, and apply specific duties to them, we conform to the practice prevalent in many of the States, and adopt the most laudable method of collecting revenue; at least preferable to laying a general tax. Whether, therefore, we consult ease and convenience in collection, or pursuing habits already adopted and approved, specific duties, as far as the articles can be properly enumerated, is the most eligible mode of obtaining the end in contemplation. Upon the whole, as I think some of the propositions may be productive of revenue, and some may protect our domestic manufactures, though the latter subject ought not to be too confusedly blended with the former, I hope the committee will receive them, and let them lie over, in order that we may have time to consider how far they are consistent with justice and policy.

Mr. BODINOT.—I believe that it will not be disputed, that the best and easiest way of supplying the public wants, is by raising a revenue on the importation of goods by way of impost, though the manner in which it should be done, I confess, is a subject on which I stand greatly in need of information. I should, therefore, most cordially comply with the request of the gentleman from South Carolina (Mr. TUCKER) in order to obtain time for consideration, and to wait the arrival of the absent gentlemen, in order that we may have that assistance which is to be derived from them. Did I consider the question on the present motion final, I should be at a loss how to act; but this, I take it, is not the case. I presume it is intended by the mover only to lay his motion on the table, with the original propositions open for debate and consideration, till the committee are possessed of sufficient information to proceed. I also confess, that, in general, I am in favor of specific duties on enumerated articles. I shall therefore vote for the amendment; but, in doing this, I shall not consider myself as bound to support the whole, nor, indeed, any particular article which, upon due consideration, I may deem either impolitic or unjust; for I cannot conceive, that, by adopting the amendment, we tie up our hands, or prevent future discussion. No, sir, that is not the case; and as I trust we all have the same object in view, namely, the public good of the United States, so I hope that a willing ear will be lent to every proposition likely to promote this end; nor do I doubt but gentlemen are mutually inclined to sacrifice local advantages for the accomplishment of this great purpose.

I confess, sir, that I do not consider myself master of the subject, and shall therefore wait for information from those gentlemen who are best able to give it. I think we are much indebted to the gentleman from Pennsylvania for going so far into the subject as his list of articles shows he has done; but I would beg of him

to inform me, if there is any thing peculiar in the manufacture of glass, as I observe it is omitted in his enumeration; if there is nothing improper in adding this article, I shall certainly move for it, as I suppose we are capable of manufacturing this as well as many of the others—in fact, it is well known that we have, and can do it, as well as most nations, the materials being almost all produced in our country. If there is any thing improper in it, I hope gentlemen will inform me; if there is not, I see no reason against its being enumerated with the others.

Mr. FITZSIMONS.—I hope there will be no difficulty in receiving the propositions I had the honor to present. When we come to consider them, article by article, for the purpose of taxing them, gentlemen will be at liberty to object; and if they offer good reasons for it, they may get them struck out; but this, I apprehend, cannot so conveniently be done in the present state of the business.

Mr. MADISON.—I suppose that the reason which induced the gentleman from Pennsylvania to introduce the list of articles now before us, is similar to the one which actuated me to enumerate those in the first proposition, namely, that they were capable, on the principle of policy, of bearing a higher duty than those left in the common mass to be taxed ad valorem. If gentlemen, on considering them, should think any incapable of sustaining such addition, they will be at liberty to move to have them struck out and restored to the general mass of articles, so that I see no very strong reason against receiving them for consideration.

The motion was put by the Chairman, and it was agreed to add them to the first list of articles introduced by Mr. MADISON.

On motion of Mr. LEE, the committee rose and reported progress, and the House adjourned.

FRIDAY, April 10.

The House met, but adjourned without doing any business.

SATURDAY, April 11.

Mr. SMITH (of Maryland) presented a petition from the tradesmen, manufacturers, and others, of the town of Baltimore, which was read, setting forth, That, since the close of the late war, and the completion of the revolution, they have observed with serious regret the manufacturing and the trading interest of the country rapidly declining, and the attempts of the state Legislatures to remedy the evil failing of their object; that, in the present melancholy state of our country, the number of poor increasing for want of employment, foreign debts accumulating, houses and lands depreciating in value, and trade and manufactures languishing and expiring, they look up to the supreme Legislature of the United States as the guardians

H. OF R.]

Duties on Imports.

[APRIL 11, 1789.]

of the whole empire, and from their united wisdom and patriotism, and ardent love of their country, expect to derive that aid and assistance which alone can dissipate their just apprehensions, and animate them with hopes of success in future, by imposing on all foreign articles, which can be made in America, such duties as will give a just and decided preference to their labors; discountenancing that trade which tends so materially to injure them and impoverish their country; measures which, in their consequences, may also contribute to the discharge of the national debt and the due support of Government: that they have annexed a list of such articles as are or can be manufactured amongst them, and humbly trust in the wisdom of the Legislature to grant them, in common with the other mechanics and manufacturers of the United States, that relief which may appear proper.

Ordered, That the said petition be referred to the Committee of the whole on the state of the Union.

Agreeably to the order of the day, the House went into a Committee of the whole on the state of the Union.

Mr. LEE.—The articles proposed for objects of imposts again recur. I wish, therefore, that the committee proceed to consider each separately; by this means we shall get through the business with expedition and facility.

Mr. GOODHUE.—I think when the original motion was introduced, it was only intended as a temporary expedient; but, from what has fallen from the gentlemen on this subject, I am led to believe that idea is abandoned, and a permanent system is to be substituted in its place. I do not know that this is the best mode of the two, but perhaps it may take no more time than the other, if we apply ourselves with assiduity to the task. As it does not appear that all the articles proper to bear an additional tax are yet selected, and as I wish the list to be as complete as possible, that the committee may have, in one view, all that is intended on the occasion, I shall beg to add—upon anchors for every 112 lb.; upon every dozen wool cards; upon wrought tin ware; upon every box of lemons; upon every barrel of limes.

The committee agreed to add these articles to the list.

Mr. CLYMER submitted it to the consideration of the committee, how far it was best to bring propositions forward in this way. Not that he objected to this mode of encouraging manufactures and obtaining revenue, by combining the two objects in one bill. He was satisfied that a political necessity existed for both the one and the other, and it would not be amiss to do it in this way, but perhaps the business would be more speedily accomplished by entering upon it systematically. It would be better to appoint a sub-committee to collate the materials, and bring them before the House better digested than they came now. He threw out these sentiments for the consideration of the

committee, without any great degree of confidence that they were right, or founded in strict order.

Mr. CHAIRMAN was of opinion that a motion of the kind just mentioned would be out of order, because a committee could not appoint another committee; the House appoints all committees.

Mr. BOUDINOT.—I am sorry, **Mr. CHAIRMAN**, to hear it suggested by any gentleman, that the proposition for a temporary system of revenue is abandoned; it is not my sentiment that it should be so. When I rise on a question of this magnitude, and which, particularly from my local circumstances, I may be considered inadequate to the discussion of, nothing ought to be supposed to actuate me but a desire of obtaining information and performing my duty; and when my sentiments differ from those of well informed gentlemen, they will attribute it to the true cause—the want of better information, and not a wish to oppose; but the better any measure is digested and understood, the more likely we are to avoid partial ideas and attend to what is most beneficial to the general good. The subject in debate was originally brought forward as a temporary expedient to obtain revenue to support the exigencies of the Union. It has been changed by successive motions for amendment; and the idea of a permanent system, to embrace every object connected with commerce, manufactures, and revenue, is now held up in its stead. I admit that the accomplishment of what gentlemen have in view is very desirable, and if we had time for the necessary discussion, it ought immediately to engage the attention of the committee; but I feel such a want of information and ability to judge of the propriety of many articles already enumerated, at the same time I think I discover similar embarrassments in other gentlemen, that makes me think the present moment is, in some degree, improper for deliberating, when we have so little time to spare. It appears to me that this business of raising revenue, points out two questions of great importance, demanding much information. The first is, what articles are proper objects of taxation, and the probable amount of revenue from each. The second is, the proper mode of collecting the money arising from this fund, when the object and its amount are ascertained. There are three sources from which we may gain information on the first question, namely, from the revenue laws of the different States, for I believe a partial revenue has been raised almost in every State by an impost. The second source of information, and a very natural one, is the great body of merchants spread throughout the United States; this is a very respectable and well informed body of our fellow-citizens, and great deference ought to be paid to their communications—they are in a peculiar situation under the present constitution, to which they are generally esteemed sincere friends—they are also more immediately interested in the

APRIL 11, 1789.]

Duties on Imports.

[H. OF R.]

event of the proposed measure, than any other class of men. To this Government they look for protection and support, and for such regulations as are beneficial to commerce; for these reasons, I think they deserve our confidence, and we ought to obtain from them such information as will enable the Congress to proceed to a general permanent system on more solid principles. The last source from which we are to derive information is the Executives of the States, stating the operation and production of the different revenue laws in the States respectively, by which we can judge of the effect likely to be produced by the system we establish, as well as the aggregate produce of a general impost. This will also tend to prevent our burthening the people at large with unreasonable duties, and cramping trade without an adequate reason.

With regard to the second question, the mode of collecting duty, I own I do not see any information so satisfactory as I could wish. When I recollect the numerous volumes of laws made to secure and regulate this point, the inefficacy of them all, though accompanied with the most terrible denunciations and penalties, and the careful observing eye of long experienced officers—I say, when I recollect all this, and consider it may be necessary for the United States to adopt a similar plan, I own that I almost shrink from the task as an extraordinary work, requiring the most superior abilities.

Though there may be some circumstances which may render the business more easy, such as the virtue of the people and the inflexibility of the officers, yet there are also difficulties of a superior magnitude to those encountered by other nations. When we look at the boundaries of the United States; when we contemplate the proximity of the eastern territory and British provinces; when we turn to the northwest, and observe Vermont leagued with Canada in pouring in upon the interior country the manufactures of Britain; when we consider the natural and political situation of Rhode Island, and judge from the nefarious principles which they have lately held, and the vicinity of their coast to the extensive shores of Connecticut and Long Island, we shall have reason to apprehend that she is ready to take every advantage of the United States that lies in her power. When I observe the shores of New Jersey, Pennsylvania, and Delaware; the wide stretched out shores of Maryland and Virginia, with the waters of the Chesapeake flowing between a winding course of three hundred miles, penetrating, in this distance, six or seven times the borders of different States; the coast of North Carolina, not yet in the Union; the borders of South Carolina and Georgia upon the Atlantic, with their numerous inlets, altogether present such a group of difficulties and embarrassments, as we cannot remove in the little time we have, nor regulate upon the information now before us. The inference I would draw from this is, that we should not precipitate a business which some of

us think the committee at this time incompetent to; but it is not for me to desire that such delay should take place—the State I have the honor to represent being altogether agricultural, at best it partakes but little of the commerce of the Union, therefore we shall not be so materially injured by an improper regulation of this subject, as those which derive greater advantages from commercial transactions.

There are gentlemen on this floor well calculated to represent the mercantile interests of this country, and in whose integrity and abilities I have the highest confidence; but it is the duty of the members of this body to see that the principles upon which we act, are those calculated to promote the general good, and not confined to the local interests of a few individuals, or even individual States, so that they will decline trusting alone to this species of information, when another is attainable.

I am aware of an objection to this mode of reasoning; it will be alleged that the pressing necessities of the United States for revenue require immediate relief, and permit no delay. This I admit, and it is this which makes me prefer a temporary system for the present to a permanent one. Let us take, then, the resolution of Congress, in 1783, as presented by the honorable gentleman from Virginia, (Mr. Madison,) and make it the basis of our system, adding only such protecting duties as are necessary to support the manufactures established by the Legislatures of the manufacturing States. Thus far we can go with safety, if we do not descend into a minute enumeration; such articles as are readily admitted to deserve legislative encouragement, we may take into the list.

With regard to the collection of the revenue, I would recommend that until a general plan can be devised, officers should be appointed to collect the impost and protecting duties, in the manner, and under the penalties, directed by the laws of the proper State. It may be said that there are some States which have no revenue laws of this kind, and, consequently, no officers to execute them; I would, in every such case, subject them to the laws of the next adjoining State. By adopting a plan upon these principles, we shall gain time sufficient to obtain full information in the manner I have pointed out, and also reap the harvest of the spring importations; the latter of these objects, I apprehend, will be totally lost by any other system that has yet been suggested.

Whatever permanent system we may devise ought to be calculated to give efficacy to trade, while it gives supplies to our treasury. This cannot be done well, if done speedily; while, on the other hand, we might get a temporary one framed against the arrival of the President, without injury to commerce or manufactures, and greatly to the interest of the Union.

If any gentleman thinks as I do, he will second me in moving, that the committee rise and report as their opinion, the appointment of a

committee for the purpose of framing such a temporary law.

Mr. BLAND hoped the committee would not rise, but as it had become a question whether the impost system should be permanent or temporary, he was inclined to favor any motion that should be made to ascertain that point, and was of opinion with the worthy member who spoke last, that the committee had not sufficient materials to enable them to erect a permanent one at this time. He, however, wished the gentleman to withdraw his motion for the present, until this point was ascertained; and he conceived this moreover to be necessary, because many gentlemen would be guided in voting the quantum of duty upon each article, by knowing whether the system was intended to be continued for a longer or a shorter period.

Mr. LEE was of opinion with Mr. BLAND, and seconded his motion for taking the sense of the House on the question proposed.

Mr. FITZSIMONS thought it best to make the system as perfect as possible before the committee determined its duration.

A desultory conversation took place on the rising of the committee and on Mr. BLAND's motion, during which it was remarked by

Mr. MADISON, that the subject which was under consideration divided itself, as had been observed by the honorable gentleman from Jersey, into two parts; and hence he concluded that they might very properly be provided for by two separate bills: and while the committee of the whole are selecting articles and taxing them, another committee can be employed in devising the mode of collection. This method he thought more likely to reconcile the opinions of the committee than any he had heard suggested.

At length the question was taken on Mr. BOWDINOT's motion for the committee to rise, and determined in the negative.

The committee proceeded to Mr. BLAND's motion, which being withdrawn,

Mr. MADISON observed, that it was impossible, from the peculiar situation of Congress, that the subject of revenue could be entered upon methodically, otherwise he should expect gentlemen prepared with documents stating the national wants, and national resources, and by the one prove the necessity of the other; but though the probable amount of a tax on enumerated articles and tonnage could not now be come at, he trusted in future that it would, and in the interim he recommended gentlemen to exert themselves in giving and procuring information, in order to get some system formed as speedily as possible. With a view to this, he moved, when the committee rose, they should report as the opinion of the committee of the whole that a committee be appointed for the purpose of preparing a bill to regulate the mode of collecting duties on imports and tonnage. Then the committee could be ready with a bill on this part of the subject, by the time the committee of the whole had gone through the article.

This motion was adopted by the committee.

Mr. FITZSIMONS agreed with the gentleman from Virginia, that the leading considerations in the business were the necessities and wants of the Union, and the best means of relieving them. No gentleman objected to the mode of impost; he therefore was led to believe that it was an eligible mode. The necessities of the state, including the instalments and interests of the foreign and domestic debt, and the current expenses of the Government, he thought might require annually (to use a round sum) about three millions of dollars. This sum he then looked upon as necessary to be raised in the present session. As gentlemen seemed to agree a large sum should be obtained by impost, they would consequently be ready to vote for as high duties as could be collected, without sacrificing the commercial or agricultural interests of the country. This consideration he hoped would be settled in the minds of the members before they proceeded to fill up the blanks annexed to the particular articles. It will no doubt be observed, that a duty on some articles will press unequally upon particular States; now all that can be done to equalize them is, to burden others again which enter into the consumption of the other States, with a duty which shall make them sustain a uniform proportion of the whole system.

Mr. SHERMAN gave it as his opinion, that in fixing the duties on particular articles, if they could not ascertain the exact quantum, it would be better to run the risk of erring in setting low duties than high ones, because it was less injurious to commerce to raise them than to lower them; but nevertheless, he was for laying on duties which some gentlemen might think high, as he thought it better to derive revenue from impost than from direct taxation, or any other method in their power. He moved that the article of rum should be charged with fifteen cents per gallon—he used the term cents because it was a denomination of national coin, fixed by the late Congress, ten of which make a *dime* and ten *dimes* one dollar.

Mr. SMITH was apprehensive fifteen cents would be too high, and therefore moved ten cents, which he thought would raise more revenue than the other.

Mr. MADISON advised and moved for the rising of the committee, in order to give gentlemen time to make up their minds respecting the quantum of impost to be laid on each article.

The question on rising was put and carried, whereupon the committee rose, and reported the resolution offered by Mr. MADISON; and a committee was appointed in conformity thereto.

Adjourned till Monday.

MONDAY, April 13.

WILLIAM FLOYD, from New York; THOMAS SINNICKSON, from New Jersey; JOSHUA SENEY, from Maryland; EDANUS BURKE, DANIEL HUGGER, and WILLIAM SMITH, from South Carolina, appeared and took their seats.

APRIL 14, 1789.]

Rules of Proceeding.

[H. OF R.]

On motion,

Ordered, That Mr. BENSON, Mr. PETER MUHLBURG, and Mr. GRIFFIN, be a committee to consider of and report to the House respecting the ceremonial of receiving the President, and that they be authorized to confer with a committee of the Senate for the purpose.

The House proceeded to consider the report from the committee appointed to prepare such further rules and orders of proceeding as may be proper to be observed in this House, which lay on the table; and the said report was read, and is as follows:

Resolved, That it is the opinion of this committee that the rules and orders following ought to be established as additional standing rules and orders of this House, to wit:

1. That any member may excuse himself from serving on any committee, at the time of his appointment, if he is then a member of two other committees.

2. That no member absent himself from the service of the House, unless he have leave, or be sick and unable to attend.

3. Upon a call of the House, for which at least one day's notice shall be requisite, the names of the members shall be called over by the Clerk, and the absentees noted, after which the names of the absentees shall be again called over; the doors shall then be shut, and those for whom no excuses, or insufficient excuses, are made, may, by order of the House, be taken into custody.

4. It shall be the office and duty of a Sergeant-at-Arms to attend the House during its sitting, to execute the commands of the House, from time to time, and all such process, issued by authority thereof, as shall be directed to him by the Speaker, and either by himself, or special messengers appointed by him, to take and detain in his custody members or other persons ordered by the House to be taken or committed.

5. A proper symbol of office shall be provided for the Sergeant-at-Arms, of such form and device as the Speaker shall direct, which shall be placed on the Clerk's table during the sitting of the House; but when the House is in committee, shall be placed under the table. The Sergeant-at-Arms shall, moreover, always bear the said symbol when executing the immediate commands of the House, during its sitting, returning the same to the Clerk's table when the service is performed.

6. Every member, or other person, ordered into custody, shall pay to the Sergeant-at-Arms — for every arrest, and — for each day's custody and release; also — per mile, for travelling expenses, going and returning, unless the payment thereof shall be remitted by the House.

7. A standing Committee of Elections shall be appointed, to consist of seven members; it shall be the duty of the said committee to examine and report upon the certificates of election, or other credentials of the members returned to serve in this House, and to take into their consideration all such matters as shall or may come in question, and be referred to them by the House, touching returns and elections, and to report their proceedings, with their opinion thereupon, to the House.

8. The Clerk of the House shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities.

Resolved, That it is the opinion of this committee, that joint rules ought to be established between the two Houses, to provide for the mode of communicating messages, of holding and conducting conferences, and all other cases of proceeding requiring previous mutual agreement."

The first resolution being read a second time, and debated by paragraphs, the first, second, third, seventh, and eighth clauses were, on the question put thereupon, agreed to by this House.

The fourth, fifth, and sixth clauses were severally read a second time, and ordered to be recommitted to the same committee.

The second resolution was read a second time, and ordered to lie on the table.

On motion, the House proceeded to ballot for a standing Committee of Elections.

The members elected, Messrs. CLYMER, AMES, BENSON, CARROLL, WHITE, HUNTINGTON, and GILMAN.

The SPEAKER laid before the House a letter from the Hon. JOHN LANGDON, a member of the Senate, communicating an instruction to a committee of that House, to report if any, and what, arrangements are necessary for the reception of the Vice President, which was read.

Ordered, That the said letter be referred to the committee appointed to consider of, and report to the House, respecting the ceremonial of receiving the President; and that it be an instruction to the said committee to report upon the said letter also.

A petition of the shipwrights of the city of Charleston, in the State of South Carolina, was presented to the House and read, stating the distress they are in from the decline of that branch of business, and the present situation of the trade of the United States, and praying that the wisdom and policy of the National Legislature may be directed to such measures, in a general regulation of trade, and the establishment of a proper navigation act, as will tend to relieve the particular distresses of the petitioners, and, in common with them, those of their fellow shipwrights throughout the United States.

Ordered, That the said petition be referred to the Committee of the whole House on the state of the Union.

TUESDAY, April 14.

Mr. WHITE presented, according to order, a bill to regulate the taking the oath or affirmation prescribed by the sixth article of the constitution; which was received and read the first time.

Mr. BOUNDINOT reported, from the committee to whom was recommitted certain clauses of the report for establishing additional rules and orders of proceeding to be observed in this House, that the committee had, according to order, reconsidered the same, and agreed to a

H. OF R.]

Duties on Imports.

[APRIL 14, 1789.]

report thereupon, which he delivered in at the Clerk's table, where the same was twice read, the blanks therein filled up, and, on a question put thereupon, agreed to by the House as followeth:

"Resolved, That it is the opinion of this committee, that the rules and orders following ought to be established, as additional standing rules and orders of this House, to wit:

A Sergeant-at-Arms shall be appointed, to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sitting, to execute the commands of the House from time to time, and all such process, issued by authority thereof, as shall be directed to him by the SPEAKER.

A proper symbol of office shall be provided for the Sergeant-at-Arms, of such form and device as the SPEAKER shall direct, which shall be borne by the Sergeant when in the execution of his office.

The fees of the Sergeant-at-Arms shall be, for every arrest the sum of two dollars; for each day's custody and releasement, one dollar; and for travelling expenses, going and returning, one-tenth of a dollar per mile."

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union; Mr. PAGE in the Chair.

Mr. BLAND, from Virginia, thought the committee not prepared to enter on the business of impost in the accurate manner which the form of the propositions seemed to imply. No gentleman on the floor could be more desirous than he was to go into the measure of a permanent system; but he could not agree to proceed at this time, for want of information. When he looked at the list of articles, he saw some calculated to give encouragement to home manufactures. This might be in some degree proper; but it was a well known fact, that the manufacturing arts in America were only in their infancy, and far from being able to answer the demands of the country; then certainly you lay a tax upon the whole community, in order to put the money in the pockets of a few, whenever you burthen the importation with a heavy impost. He was likewise apprehensive that the federal treasury would lose a considerable supply, if the necessary time was taken to perfect a permanent system; he therefore wished a temporary one, and made a motion to obtain the sense of the committee on this point, as well as on the mode of collection.

He adverted to the subject of tonnage, observing that it was well known that America did not furnish a number of ships sufficient for the transportation of its products; therefore any high duty on this article would embarrass the agriculture, which, as his colleague had before observed, was the staple of the country.

Mr. SCOTT.—The subject before us naturally divides itself into two heads. First, what articles shall be the subject of a particular tax, and what shall remain in the common mass liable to an impost ad valorem? The second, what

the sum is that is proper for the article we select? For both these points will be necessary, because it can hardly be supposed that all articles can be enumerated, while some certainly ought. This being the case, it leads us to inquire what rule or principle shall be laid down in order to make a proper discrimination; for surely some reason should be assigned for this distinction. I presume the particular article which is to be subjected to an extraordinary duty must either come at so cheap a rate, according to its intrinsic value, as to bear a greater impost without being unreasonably expensive, or it must be one which we do not stand in need of at all, and only used for the purposes of luxury. If an article does not come within one of these descriptions, I see no reason why it should be taxed in an extraordinary manner.

My present design, therefore, is, that the committee should, in the management of this business, conduct their motions in this way. By treating it so, the work may be expedited much more than it can by the vague and indeterminate manner of our procedure hitherto. I would, therefore, recommend that each article be taken up separately, and considered whether it is a proper one for the committee to select or not. There may be some articles which ought not to be selected, and I think I discover one enumerated in the list before us, which, so far from meriting a high duty, ought not to be taxed at all; for these reasons, I hope the committee will proceed in the manner I have described, and fairly give their sense on the propriety of each article as it occurs.

Mr. MADISON.—I apprehend, sir, that the motion made by my colleague (Mr. BLAND) is out of order; not only because the committee have determined to proceed in the business and fill up the blanks, but because it would be one committee giving instruction to another; for although we are a committee of the whole House, we cannot exercise the powers belonging to the House, among which is that of instructing committees. It surely is in the recollection of every member, that a committee is appointed upon the subject, which is in the view of the gentleman's motion, namely, that for regulating and ascertaining the mode of collecting the impost. I presume, therefore, that if any instructions are necessary to be given respecting the discharge of the duty of the committee appointed to this business, they ought to come from the House. The motion, therefore, if it is proper at all, is proper only before the House.

Mr. BLAND did not wish to take up the time of the committee in debating a question of order; but he would just observe, that he looked upon the committee alluded to by the gentleman last up, as appointed on a different subject from that he proposed to the consideration of the committee. They were appointed to devise and digest a mode of collection adapted to a permanent system of revenue, which the House, at a time of more leisure, might complete; but the object

APRIL 14, 1789.]

Duties on Imports.

[H. OF R.]

he had in contemplation was, for the committee to agree to use a less perfect one in the interim, in order to embrace two or three hundred thousand dollars arising from the spring importations, which he dreaded the loss of, if the business was not soon completed. However, as the motion was objected to as out of order, he would withdraw it for the present, and offer it to the House when the committee rose.

On motion of Mr. GALE, the word *rum* was changed into distilled spirits of Jamaica proof.

Mr. LAWRENCE proposed to lay twelve cents on this article, saying, I believe, Mr. Chairman, it will be necessary to consider, when we are about to lay a duty on any article, how far it is likely to be collected, especially if our main object is to obtain revenue by our impost. I trust it does not require much illustration to prove to the satisfaction of the committee, that if you lay your duties too high, it will be a temptation to smuggling; for, in the proportion which that sum bears to the value of the article, will be the risk run in every attempt to introduce it in a clandestine manner, and, if this temptation is made too strong, the article will furnish no revenue. I believe, if the committee shall impose a duty of fifteen cents, as proposed by the gentleman from Connecticut, (Mr. SHERMAN) it will be so strong a temptation for smuggling, that we shall lose our revenue altogether, or be compelled to use a mode of collection probably different from what we have been accustomed to—a mode so expensive as to absorb the whole produce of the tax.

I wish to lay as large a sum on this article as good policy may deem expedient; it is an article of great consumption, and though it cannot be reckoned a necessary of life, yet it is in such general use, that it may be expected to pay a very considerable sum into your treasury, when others may not with so much certainty be relied upon. But, when we consider the relative proportion of the first cost of it, and the fifteen cents duty, we shall find it about one third. This, I cannot help thinking, is too high, as the risk of a total loss may be ventured in order to save so great a sum; it is surely a great temptation, and I dread its consequences on more accounts than one.

Mr. FIRZSIMONS.—I shall trouble the committee with an observation or two, and then submit to the members their choice of the sums, though the propriety of the one or the other is of such a nature, as not to be capable of complete demonstration. But it will be readily granted me, that there is no object from which we can collect revenue, more proper to be subjected to a high duty, than ardent spirits of every kind; if we could lay the duty so high as to lessen the consumption in any great degree, the better. As the gentleman has just observed, it is not an article of necessity, but of luxury, and a luxury of the most pernicious kind. It may be observed, that lessening the consumption is not the object which the committee have in view; but surely, from the considerations I have men-

tioned, it is an article for us to draw all possible revenue from. If it is a fact, that an increase of three cents will so greatly increase the temptation to smuggle as to make it unavoidable, or increase the number of officers so as to absorb the revenue, then they ought not to be laid; but whether this will be occasioned by so small a difference as there is between twelve and fifteen cents, can only be matter of opinion, and to me it appears, that the provisions necessary to secure the collection of the one will be effectual to secure the other; therefore I am in favor of the highest sum.

Mr. MADISON.—I would tax this article with as high a duty as can be collected, and I am sure, if we judge from what we have heard and seen in the several parts of the Union, that it is the sense of the people of America that this article should have a duty imposed upon it weighty indeed. The duty proposed by the gentleman from New York (Mr. LAWRENCE) very little exceeds what is laid in this State, and very little what is laid in some other States, while some have thought it expedient to impose an excise superior. The question then is, whether the highest sum can be collected? I am of opinion that higher duties may generally be collected under the government of the Union than could be under that of the particular States, because it has been the policy of some, not only to decline going hand in hand together, but actually to oppose regulations made in a neighboring State. Being persuaded, likewise, that the highest sum will not exceed the power of the law to enforce the collection of, I shall vote for it.

Mr. FIRZSIMONS.—I shall observe further, sir, that in Pennsylvania this article is charged with an impost amounting to near three-ninetieths of a dollar, and an excise in addition of eight-ninetieths. This is collected from about eight hundred thousand gallons, without any great difficulty. The highest sum proposed to the committee very little exceeds that collected in Pennsylvania, and I suppose that any mode which will ensure the one, will enable us with an equal degree of certainty to obtain the other.

Mr. BOUDINOT.—I am in favor of taxing this article as high as there is a probability of collecting the duty. I think our doing so will answer two or three good purposes. The present object of the committee is to raise a revenue, and no article on the list before you is more likely to be productive than this one; but a high duty may also discourage the use of ardent spirits, if not, it may discourage the West Indies from turning their molasses into rum. This being the case, they have no other market for molasses than this country, and our own distilleries, with the advantages arising therefrom, will be able to rival them in the manufacture of that article; so far it may tend to the benefit of the country. I conceive it might be proper, on these accounts, to lay a much higher duty than has been proposed, were it not for the considerations mentioned by the gentleman from New

H. of R.]

Duties on Imports.

[APRIL 14, 1789.]

York, that we run a risk of losing all by grasping at too much.

MR. LAWRENCE.—The sum proposed is higher than the duty collected in this State, which is about eight cents; I fear, therefore, that it cannot be collected. If we are to reason and act as moralists on this point, I am certain it is the wish of every member to prevent the use of ardent spirits altogether, for their influence on the morals of the people is of the most pernicious kind. Nor does the mischief terminate here, as I apprehend it is equally destructive to the health; but we are not to deliberate and determine on this subject as moralists, but as politicians, and endeavor to draw (if I may use the expression) from the vices of mankind, that revenue which our citizens must, in one form or other, contribute. The question is, what shall be the duty on any particular article? To accomplish this purpose, we must determine by the circumstances of that article. Now, if we lay a high duty on Jamaica rum, it is supposed it will prevent the consumption; but then the purpose we have in view is frustrated, either because we cannot collect the tax, or the object of it is no longer imported. The consequence in this latter case would be, that the morals of our citizens are not impaired; yet it does not appear to me that this consequence would certainly flow from a system of high duties. I rather fear it would lead no further than to set men on schemes to evade the duty; and none of us are ignorant of the ingenuity and invention which can be exercised, when interest prompts mankind to an evasion of the law. We know the situation of the different States; the coast disposed by its prodigious extent to favor every means of illicit trade. A cargo of rum could be landed in Jersey, and the whole, reshipped in small vessels, might soon be brought into this city. If this should be the effect of our law, we have no other way to correct the operation, but by adopting a mode of collection odious to all, on account of the numerous train of officers it would require in its execution. But there would also be a danger of vessels running into creeks and small inlets, for the purpose of landing their cargoes, as well as on the sea-shore. Hence a necessity would arise of employing a number of vessels to check and correct such abuses, and the probable event would be, that all the impost collected would go to defray the expense of getting it into the treasury.

Rum is an article of great consumption throughout the Union. The State I have the honor to represent has imported, from April, 1786, to April, 1787, a quantity exceeding eight hundred and fifty thousand gallons, of which only sixty-seven thousand were exported; consequently, the remainder has been consumed among ourselves, and the people of that part of New Jersey which draws its supplies from this city. Now, it appears to me not improbable that we shall lose a great deal of the revenue, if we lay the duty so much higher than

heretofore. Being impressed with these sentiments, I must vote against the motion for fifteen cents.

MR. BOUDINOT inquired of the gentleman from New York, if rum was not also subject to an excise in that State.

MR. LAWRENCE.—There is no other duty than what I have mentioned, which is permitted to be drawn back on exportation.

MR. MADISON did not see how the importing States could be injured by a high duty more than the others, as all duties came into the federal treasury. He observed, that if Pennsylvania had been able to collect with certainty a duty amounting to about twelve cents, when the two neighboring States not only declined to co-operate, but pursued a counter interest, there could be no doubt but so small an addition as three cents, laid to affect generally the whole Union, might with equal certainty be collected.

The committee now agreed to tax ardent spirits, of Jamaica proof, fifteen cents; and all other spirituous liquors twelve cents.

On filling up the blank on molasses:

MR. MADISON.—It is agreed, I presume, that spirits of every kind are proper objects of taxation, but whether we shall tax spirits in the case before us, or whether we shall tax the article from which it comes, is a question worthy of the consideration of the committee for several reasons. I believe it will be best to lay our hands on the duty, by charging this article on its importation, to avoid a more disagreeable measure. I would, therefore, lay such a duty on molasses, as is proportioned to what we have affixed upon rum, making an allowance in favor of our own manufacture. I think eight cents per gallon will allow a sufficient advantage to them, but of this I am not positive, and, therefore, shall not pertinaciously adhere to that sum, if it be thought too high; but I presume I am right in the principle upon which I contend, that we ought to collect the duty on the importation of molasses, in preference to any other way.

MR. PARKER observed, that the distilleries made a very great profit on the manufacture of this article, and it would be increased by the difference which was made in duty between it and West India rum. He was an advocate for laying it on molasses, because he did not think this a proper time to enter upon an excise law; if the duty operated to discourage the consumption of New England rum, he thought it would have very happy consequences; he therefore seconded the motion for eight cents.

MR. LAWRENCE.—Shall we, Mr. Chairman, tax articles which are necessities of life equally as if they were luxuries? I apprehend not. In some parts of the United States, this article is used as a necessary among the poorer class of citizens; consequently, if you tax it high, you unequally burthen that part of the commu-

APRIL 14, 1789.]

Duties on Imports.

[H. OF R.]

nity who are least able to bear it. When the Congress of 1783 had it in contemplation to tax this article, I believe they did not propose more than one penny. Perhaps the change that has taken place since that time would warrant us to double that sum. For my part, I should be willing to allow it, but the honorable gentleman from Virginia proposes four times as much as I judge to be proper. If it could be collected, it would amount to a very large sum; but let us examine the probability there is of being able to do it. When you compare the tax with the price of the commodity, leaving out the consideration of its being a necessity of life, you find it is one to three. I ask gentlemen to tell me candidly, will not the payment of the duty be evaded? And shall we not deceive ourselves in calculating upon a revenue which we can never collect?

I believe, if I am well informed on this subject, the tax which I propose will amount to about forty thousand dollars, so great is the importation of this article. By the tax the honorable gentleman proposes, it would amount to one hundred and sixty thousand, which, I fear, is more than can or ought to be collected.

This article, as was before observed, is a raw material for manufacture, and which, when distilled, is exported in considerable quantities. If a heavy duty is laid, will it not prevent the exportation? But, should we even allow a drawback on what is exported, it will; nevertheless, considerably encumber the trade by obliging the merchant to advance much of his capital in duties, and will still remain an oppression to the poor, who consume it in substance.

Mr. MADISON viewed the present question in two points of light. First, as it respected the use of the article in the substance; and second, as it related to a manufacture of considerable importance. If it was possible to make a discrimination between them, he was ready to agree to one in favor of the first class; but, conceiving this to be impracticable, he thought the question was reducible to this, whether our revenue should be lessened as much as distilled spirits confessedly ought to pay, and our country, consequently, filled with a baser liquor, or whether we shall tax an article which will indirectly tax the rum manufactured from it in due proportion to what is brought from the islands.

I do not conceive (continued Mr. MADISON) that the quantity of this article manufactured and exported to foreign countries, is anywise considerable. I find by an account of the exports of Massachusetts, (which appears to be authentic,) and it is a State that manufactures in full proportion to any other State in the Union, that there have been shipped off to different parts of this country 49,943 gallons of rum manufactured there; to Nova Scotia, 801 gallons; to Europe, 1206; and to Africa and the East Indies, 897 gallons.

So that the great exportation which the gentleman from New York mentions, is made to the different parts of the United States, and

not to foreign countries; the duty, therefore, will be principally paid by our own citizens, who are the consumers. The gentleman has mentioned a drawback as a relief to the manufacturers. He does not, perhaps, consider the advantage which a general regulation of trade gives to the State manufacturing rum. The admission of that commodity into every State is perfectly free under the new constitution, and unencumbered with the duties heretofore laid by the State Legislatures; from which, it is manifest that a drawback, so far as relates to the coasting trade, is unnecessary. I think, also, that the small quantity exported to Europe and Africa is too inconsiderable to justify the Legislature in allowing drawbacks, under which system great frauds can easily be committed upon your revenue: to what purpose shall we collect revenue, if it is put in the power of every individual clandestinely to reclaim it, without a possibility of our discovering the injustice?

If a discrimination can be suggested, I shall readily agree to it; but I think it cannot be done unless we substitute an excise, or a tax on stills, neither of which would be equally convenient or productive, and therefore neither would be proper for the House to agree to. The proportion between the duty on country rum at eight cents, and West India at twelve cents, is a considerable difference in favor of home made spirits, and sufficient to answer the purpose of protecting the manufacture.

Mr. FITZSIMONS.—I think the duty on this article depends, in a great measure, upon what has been already agreed to. If the tax of West India and country rum is not well proportioned, it may be destructive of the end we have in contemplation. If, agreeably to the idea of the gentleman from New York, we affix a low duty, a great deal more rum will, in all probability, be distilled and used than heretofore; of course, it will effectually rival the Jamaica rum, and the Union will lose the revenue which we calculate upon. Eight cents, I apprehend, is as well proportioned to the other taxes as can be devised. Country rum is worth two shillings and three pence, which is more than half the price of Jamaica spirits, so that rum of the former quality can be used so much cheaper, as to establish itself a greater consumption than heretofore. It has been mentioned as a necessary of life—the fact is admitted; but shall it be inferred from thence, that no duty ought to be collected from molasses, while you impose one on sugar, which is equally a necessary of life among the middle and southern States; although the remark has been made already, I must repeat it, and beg the committee to bear in mind, that whenever a tax on a particular article seems to bear harder on one State than another, we must endeavor to equalize it by laying some other to restore an equilibrium to the system.

Mr. GOODHUE considered molasses as a raw material, essentially requisite for the well-being of a very extensive and valuable manufacture. It ought likewise to be considered (as was truly

H. OF R.]

Duties on Imports.

[APRIL 14, 1789.]

stated) a necessary of life. In the eastern States it entered into the diet of the poorer class of people, who were, from the decay of trade and other adventitious circumstances, totally unable to sustain such a weight as a tax of eight cents would be upon them. Moreover, the tax was upon particular States as well as individuals, for it was a fact of public notoriety, that Massachusetts imported more molasses than all the other States together. She imports from 30,000 to 40,000 hogsheads annually. He would make one observation more. It had been the policy of Great Britain, as he well remembered, to encumber and depress the distillation of molasses. To do this, at one time they laid a duty of three pence sterling per gallon. It was conceived to be an oppressive measure, but it had little other effect than to cause heart burnings and enmity. It produced no revenue, and the Parliament were forced to reduce the duty to a penny. From experience, therefore, as well as from the arguments before urged, he was inclined to believe that the committee would be satisfied with fixing a lower sum. He could not consent to allow more than two cents.

Mr. MADISON had heard an observation made by the gentleman from Pennsylvania, which he thought lessened the force of the objection taken against taxing molasses as a necessary of life. Those who used it in substance escaped the tax on sugar, at least so much of it as the one was a substitute for the other. He feared that there was no other way of coming at the duty on country rum, but laying one on the material from which it was extracted, and he did not think eight cents out of the way.

Mr. GOODHUE replied, that eight cents was nearly half the first cost, and consequently disproportioned to the tax on foreign rum. He also observed, that the gentleman from Virginia, when he was stating the rum exported abroad, must surely have read wrong, for to his certain knowledge several vessels were principally loaded with this article every year.*

Mr. THATCHER.—It appears to me, that for the want of a certain and fixed principle to act upon, there is a great danger of making some improper establishments. It is for this reason that I wish not to hurry on the business with so much precipitation. Did gentlemen consider, when they agreed to a high duty on ardent spirits, that it would be a pretext for increasing the duties on a necessary of life. I presume a principal reason why a high tax on spirits was admitted, was in order to discourage the use of it among ourselves. If this was the intention of the committee, I have no objection to the burthen; but, even here, I fear difficulties will arise. Did we judiciously examine whether the

spirit of the law accords with the habits and manners of the people? and did we assure ourselves of the full execution of the law? If we did not, the act becomes impolitic, because a law which cannot be executed tends to make the Government less respectable.

Consider molasses as a raw material, and, on this account, you cannot agree to burthen it with an unequal tax; consider it as a necessary of life, entering daily into the consumption of the lower class of people, and the duty on it ought to be extremely low. I do not see how we are to get clear of this embarrassment, unless we rescind what we have already done; because, if the principle for taxing ardent spirits be to lessen the consumption, in order to preserve the health and morals of the people, it will apply as forcibly to tax country rum eight cents, as is now proposed, as it did to tax Jamaica rum fifteen cents. I am not an enemy to making the impost the principle instrument of revenue, yet I fear we have not proceeded with due deliberation. It was my wish to take up the subject, as has been frequently mentioned, and form a law on the most simple principles, leaving time, information, and reflection to form a system of impost, on more extensive and particular principles, fitted equally to affect the whole and every part of the Union.

For these reasons, I shall move, if I am in order, to take up the resolution of Congress of 1783, and lay on duties as nearly similar as can well be to those recommended at that period; and then move for a committee to go on to review and consider of certain regulations necessary to form a permanent system at some future period.

Mr. CLYMER.—The advocates for a low duty repeatedly mention this article as a raw material necessary to support a considerable manufacture; but do they consider that the consumption of country rum is attended with an injury to a much more valuable manufacture, the raw material for which is furnished by our own agriculture, and which is divested of the pernicious qualities attached to ardent spirits—I mean the manufacture of malt liquors.

Mr. AMES.—I have not had the advantage of hearing all the arguments in support of the eight cents proposed; but those I have heard I am not satisfied with. The principles on which this tax is founded, I understand to be this: that it is an article of luxury, and of pretty general consumption, so that the duty is expected to fall equally upon all; but that it will not operate in this manner, I think is easily demonstrable. Can a duty of fifty per cent. ad valorem, paid, as it were, in an exclusive manner, by the State of Massachusetts, be equal? No, sir. But taking it as a part of the general system, can it be equal unless a proportionable duty, equal to fifty per cent. is laid upon articles consumed in other parts of the Union? No, sir; and is it in the contemplation of gentlemen to lay duties so high as to produce this equality? I trust it is not; because such duties could never be col-

*This article, in the exports from Massachusetts, stands thus: "Country rum—hogsheads shipped to the several parts of the United States, 5327, value £49,943; to Nova Scotia, 89 hogsheads, value £801; to Europe, 134 hogsheads, value £1206; and to Africa and the East Indies, 897 hogsheads, value £8073."

APRIL 14, 1789.]

Duties on Imports.

[H. OF R.]

lected. Is not, therefore, eight cents disproportioned to the rates fixed, or intended to be imposed on other articles? I think it is; and, if to these considerations we add what has been said before, relative to its being a raw material important to a considerable manufacture, we cannot hesitate to reject it.

The people will indubitably continue to use ardent spirits, until the slow operation of the law shall produce other habits; and while they continue to use them, it is better for this country that they use the kind which is wished to be indirectly taxed. It must be better, because it is manufactured within ourselves, and gives useful employment to a considerable number of our fellow-citizens. It must be better because the goods which we export for the raw materials, are drugs upon our hands. Certainly the trade is mutually beneficial to the parties concerned; but it is so in a greater degree to us than to them. We exchange for molasses, those fish that it is impossible to dispose of any where else; we have no market within our reach, but the islands from whence we get molasses in return, which again we manufacture into rum. These circumstances form a material link in our chain of navigation, and upon our success in navigation the most important interests of the United States depend. It is scarcely possible to maintain our fisheries with advantage, if the commerce for summer fish is injured, which I conceive it would be very materially, if a high duty is imposed upon this article; nay it would carry devastation throughout all the New England states, it would ultimately affect all throughout the Union. Will gentlemen, who declare themselves the friends of manufactures, support the opinion, that a raw material ought to be saddled with an excessive duty, that the imposition should be at a higher rate than what is laid upon manufactured articles; at a time too when the price is such that the home manufacture cannot support a successful competition with the other, even in our own markets? No, gentlemen will not be so inconsistent: they know and advocate the policy of supporting the manufactures of our country, by giving them such advantages as are consistent with the general good.

I shall proceed to show the importance of the present subject, in another point of light. The taking of fish on the banks is a very momentous concern, it forms a nursery for seamen, and this will be the source from which we are to derive maritime importance. It is the policy of some nations to drive us from this prolific source of wealth and strength; but what their detestable efforts have in vain endeavored to do, you will accomplish by a high duty on this article. Our situation with respect to the fishing banks, and our vicinity to the West India islands, are natural advantages, which all the machinations of jealousy cannot prevent us the enjoyment of. The habits of our fishermen are well calculated to improve these advantages to perfection, and no nation can carry on the busi-

ness at so small an expense; it is these circumstances that render our fish cheap while this cheapness insures us a sale, and enables us to be successful competitors in every port that will receive us. Our best fish will find its way to the best markets, while the slaves in the West Indies will consume the refuse. If we can exchange that part, therefore, which would be otherwise thrown away, it is so much clear gain to the community. Hence, this country by increasing the demand of our fish increases the navigation; gentlemen will therefore be cautious how they adopt a measure that affects, or only seems to affect, one of the most important interests of the United States.

However gentlemen may think the use of this article dangerous to the health and morals of our fellow citizens—I would also beg them to consider, that it is no more so than every other kind of spirituous liquors; that it will grow into an article for exportation; and although I admit we could export it even encumbered with the duty proposed, yet by it we run the risk of having the manufacture totally ruined, for it can hardly now stand a competition at home with the West India rum, much less can it do so abroad. If the manufacturers of country rum are to be devoted to certain ruin, to mend the morals of others, let them be admonished that they prepare themselves for the event: but in the way we are about to take, destruction comes on a sudden, they have not time to seek refuge in any other employment whatsoever. If their situation will not operate to restrain the hand of iron policy, consider how immediately they are connected with the most essential interests of the union, and then let me ask if it is wise, if it is reconcilable to national prudence, to take measures subversive of your very existence? For I do contend, that the very existence of the eastern states depends upon the encouragement of their navigation and fishery, which receive a deadly wound by an excessive impost on the article before us.

I would concur in any measure calculated to exterminate the poison covered under the form of ardent spirits, from our country; but it should be without violence. I approve as much as any gentleman the introduction of malt liquors, believing them not so pernicious as the one in common use; but before we restrain ourselves to the use of them, we ought to be certain that we have malt and hops, as well as brew-houses for the manufacture. Now I deny that we have these in sufficient abundance to the eastward; but if we had, they are not taxed. Then why should the poor of Massachusetts be taxed for the beverage they use of spruce, molasses, and water—it surely is unreasonable. I hope gentlemen will not adopt the motion for eight cents until they are furnished with some better evidence of its propriety and policy than any that has yet been given, or as I suspect that can be given.

Mr. FITZSIMONS was pleased that gentlemen went so fully into a discussion of a subject which they conceived of great importance,

but he begged them not to lose sight of an observation that had already been made, that whenever a particular duty was supposed to bear hard on any one member of the union, it ought to be regarded as a part only of a system bearing equally upon all. He was a friend to commerce, it was his particular profession, and what he had principally devoted his attention to; and therefore it might justly be imagined he was unwilling to fetter it with restraints; but as a member of this body, he considered it proper to forego a pertinacious adhesion to that system, when its interest came in competition with the general welfare.

The gentleman from Massachusetts (Mr. Ames) has represented the proposed regulation as tending eventually to the ruin of the commerce, fisheries, and manufactures of that state. I do not believe (added he) such a consequence would result from a duty of eight cents on a gallon of molasses; if I did, I would be one of the last to advocate the measure; but to understand this circumstance more fully, let us proceed to an inquiry of the ground on which we stand. The state of Massachusetts imports a greater proportion of this article than any other in the union; she will have therefore (say the opponents of the measure) to pay exclusively all the impost upon it. Let us examine this. Some part of the molasses is consumed in the substance, but all the remainder is distilled: this must either be consumed in the State, or exported from it; in the latter case, I would propose that all the rum shipped to foreign nations should draw back the duties it had paid as molasses. This would obviate all that was said relative to the competition between this State and other nations at a foreign market. As to what is exported but consumed in some other parts of the United States, it is but proper that a duty should be paid, and although it may be advanced in the first instance by the people of Massachusetts, yet it will be ultimately paid by the consumers in other parts.

What is consumed within the State itself, gentlemen surely do not mean to have excluded from a duty. If they consume more country rum than West India, they pay a less duty than those States which consume a greater proportion of the latter. As to what is used in its raw, unmanufactured state, it will be sufficient to observe, that as it is generally a substitute for sugar, the consumers will therefore avoid the tax on that article, and pay it on the other. In Pennsylvania they mostly use sugar; now, if the people there pay a tax on that article, it is but distributive justice that the people of Massachusetts pay one on the article they use for the same purpose.

I do contend, that if a less, or much less duty on this article is laid, it will rival foreign rum so far as to prevent its importation in a considerable degree, whereby the United States will lose the revenue expected from it, or the operation of the tax will be unequal upon the consumer of sugar and molasses, which cannot cer-

tainly be the wish of any member, if I may judge from the conciliating disposition which is prevalent in the committee.

Mr. AMES stated the difference in the price of country rum and West India—the former was worth two shillings and three pence, the latter twice as much, so that there was not observed a proper ratio in taxing the one eight cents and the other twelve cents. He stated the difficulty of collecting so high a duty, and expressed an apprehension that the committee would deceive themselves in calculating upon it for any great production. He was satisfied it would hereafter become necessary to lower the duty from eight cents, if the committee should now agree to lay it, and appealed to their wisdom, if it was not better, and less injurious to the fair trader at any time, to increase than diminish the duties. This circumstance demanded the attention of the committee, though he would not press it further, being satisfied that gentlemen's candor would induce them to acknowledge the propriety of such policy.

He had mentioned before the devastation which he conceived likely to take place, if a high duty was laid on this article. The observation was thought by the gentleman who spoke last, to be altogether without foundation; he hoped it was. But here his reason and wishes were at variance: He was convinced that the fishery had for some years past been very unproductive; not but that the fish were to be had in plenty, and the fishermen's abilities were equal to any other in the world; but because they could not find a market to dispose of the product of their labor. He was pretty certain the trade would have been abandoned by many who have carried on a losing trade, had it not been for the hope that a more energetic Government would be framed, which would give them that support which the importance of the subject required.

All he wished on the present occasion, was to lay such a duty as should protect the manufacture. He feared no loss to the revenue; because if the duty was low, all molasses would be entered and paid for, whereas if it was high, it would induce an illicit trade, as injurious to the morals of the people as the consumption of our country rum. In addition, he considered it a necessary of life, and would never consent to tax it fifty per cent. upon its value, nor did he believe any other gentleman would, if he considered that the tax would operate more against the poor than the rich, because the poor were the principal consumers of the article.

Mr. GOODHUE.—Fifteen cents, the sum laid on Jamaica spirits, is about one-third part of its value; now eight cents on molasses is considerably more: the former is an article of luxury, as was observed when it was under consideration, therefore that duty might not be improper; but the latter cannot be said to partake of that quality in the substance, and when manufactured into rum it is no more a luxury than Jamaica spirits. I cannot see, therefore, why molasses

APRIL 14, 1789.]

Duties on Imports.

[H. OF R.]

ought to be taxed forty or fifty per cent. when the other pays but thirty-three: Surely the substance ought not to pay at this rate—then what good reason can be offered for the measure?

Mr. LAWRENCE adverted to the price of the molasses, which at the place of importation was worth one shilling and nine pence. West India rum he stated to be worth three shillings and four pence or three shillings and sixpence—the duties were not in the same proportion. He thought the labor of distillation ought not to be taxed—a gallon of molasses gave a gallon of rum; but it ought not to be charged, even upon the principles of the advocates for high duties, at more than six cents.

Mr. BOUDINOT had attended to the arguments of the gentlemen on both sides of the question, and was led to believe the proportion was not properly observed. By the resolution of Congress in 1783, the molasses was fixed upon due consideration at one penny, and West India rum at four pence. The proposed proportion was two-thirds of what is charged on West India rum. He thought this too high, as it would be an incumbrance on a considerable manufacture; six cents were therefore a more equitable rate than eight cents were: he believed also, that it was as much as the article would bear, especially if it was considered that the whole of the article was not manufactured into rum, but a large proportion consumed in substance. This might also be near what is intended to be charged on sugar; by fixing it at this rate, the necessity of lowering the duty at some future day would be avoided, which he thought an object worthy of the committee's consideration.

Mr. GOODHUE observed, that even six cents bore no kind of proportion to the tax laid in Massachusetts upon this article; it was much too high, and could not fail of giving great dissatisfaction among the people.

Mr. AMES.—If the committee pass a resolution that shall have a tendency to injure the sale of country rum, the fact is, that being unable any longer to export it, we shall have such a quantity on hand as to occasion the ruin of those concerned in the manufacture; for unless it is exported, they have no means of disposing of it. The quantity annually exported is very considerable, and it gives employ to several thousand tons of shipping; if therefore the trade is stopped by our restrictions, it will have a fatal effect upon our navigation, the encouragement of which is admitted to be of high importance to every part of the union.

Mr. MADISON stated, that the rum exported in one year since the peace, amounted to six hundred and eighty-three thousand and some odd gallons, the principal part of which was sent to different parts of the United States: now, if a considerable difference was made in the duties between West India rum and that of our own manufacture, the consequence would be, that an inferior liquor would overspread the country, and the revenue become unproductive; but

he did not wish, objectionable as the manufacture of this article was, that it should have no encouragement. If gentlemen would be satisfied with a small reduction, he would withdraw his motion for eight cents; but he believed six cents would be too low, he therefore moved to tax it with seven cents.

Mr. BOUDINOT wished the gentleman to consider the difference in the price; if he did that, he would allow it to be reduced to six cents; if this principle could now be fixed, it would carry them through the whole.

Mr. PARTRIDGE allowed, if all the molasses was distilled into rum, that a small duty might be proper; but when it was considered as an article of sustenance to the poor, and as a requisite to the support of the fisheries and navigation, he hoped the committee would allow but a very small one indeed. He wished it was possible to discriminate between what was manufactured into rum, and what was consumed in the raw state, because a higher duty might be collected in the former case than in the latter.

Mr. FITZSIMONS stated, that there were 327,000 gallons of rum imported into Pennsylvania in 1785, which would tend to show how great a part was consumed by the citizens of the Union; a demand in one State so great as this, proved how likely it was for New England rum to rival the West India. He thought the prices of the two articles gave the country rum a very considerable advantage, and therefore a duty of seven cents could not be very injurious to the manufacture.

The question was put on seven cents and lost.

And it was agreed to fill the blank with six cents.

On filling up the blank on Madeira wine,

Mr. SHERMAN moved fifteen cents.

Mr. GILMAN moved twenty cents, and

Mr. HARTLEY moved thirty cents, in order (as he observed) to make it correspond with the rate per cent. on the value; as the principle of proportion seemed to be admitted by the committee.

Mr. SHERMAN said, it appeared to him to be pretty well proportioned; because those who accustomed themselves to drink wine, consumed two or three times as much as those who used spirits, and consequently paid a due proportion.

Mr. FITZSIMONS.—I shall move you, sir, that the blank be filled with fifty cents. I observed some gentlemen, in their arguments on the last article, laid great stress upon the impropriety of taxing the necessities of life that were principally consumed by the poorer class of citizens. I do not think any of the members of this committee consider the article of Madeira wine a necessary of life, at least to those whose incomes are only sufficient for a temperate subsistence; therefore no objection of this kind can be made on the present occasion. The propriety of a high tax on wines, I apprehend, is self-evident, whether we consider the price of the

H. OF R.]

Duties on Imports.

[APRIL 14, 1789.]

article, or the ability of the people to pay who consume it. The value of a pipe of Madeira wine, I believe, is about two hundred dollars; a hogshead of rum is worth about forty dollars. The ability of those who consume the one and the other are, I suppose, in nearly the same ratio. I do not pretend to know what are the intentions of gentlemen on this subject, but my wish is, to raise so considerable a revenue from imposts as to render it unnecessary to apply to any other mode. If this be the wish of the committee also, they will be inclined to raise a great part of it from the consumption of those people who are best able to pay, among whom we may, with great propriety, reckon the consumers of Madeira wine.

Mr. P. MÜHLENBERG thought his colleague's observations were very judicious, and said they met exactly his ideas; he therefore seconded the motion for fifty cents.

Mr. BLAND.—I am not against laying any sum on this article which there is a probability of collecting; but I am afraid we are running wild in the business, and although we appear to be in search of revenue, we are pursuing a track that will lead us wide of our mark. I am really suspicious, if we lay a duty of fifty cents upon Madeira wine, we shall not have a single gallon entered in any port of the United States, and we shall fully verify to the world the truth of an old maxim, that two and two, in finance, do not make four. I would therefore suggest to the committee, the propriety of considering well, whether they can or cannot collect the high duty proposed. If they are well convinced that it can be done, and will satisfy me only that there is a probability of its being the case, I shall cheerfully concur in the motion; but at present, I am of opinion we shall not be able to obtain any revenue whatsoever if the tax is laid so high.

Mr. LAWRENCE apprehended the gentleman from Pennsylvania (Mr. FIRZSIMONS) was mistaken in the price of Madeira wine; he had stated it to be worth two hundred dollars a pipe; it might be so when sold for consumption, but it was not worth more than half that sum at the time of importation; wherefore on the principle of proportioning the impost to the value, he would propose twenty cents.

Mr. FIRZSIMONS.—I mentioned two hundred dollars as the value of a pipe of Madeira wine when sold for consumption, and, so far as my experience goes, I believe it to be the case. Madeira wine is not only regulated by the first cost and charges on transportation, but also by the time it is kept to prepare it for consumption; and I know, sir, there are Madeira wines at a less price imported, which are not consumed; but I believe what is actually consumed sells for little less than the sum I mentioned. No wine can be bought in the island of Madeira for less than twenty-four pounds sterling the pipe. This, with the expence and charges of shipping, freight, &c. will bring the lowest kind of wine far beyond what the gentleman from New York

estimates it at. Comparing, therefore, the duty with the value of the article, I believe it will be found that fifty cents is not much too high; if therefore the committee will not grant that sum, they certainly will be for something near it.

Mr. BOUDINOT.—I agree entirely with the principle of laying duties according to their relative value, and hope the committee will keep up the line of proportion as near as possible. It is only in the application of this principle on the present occasion, that I differ with the honorable gentleman from Pennsylvania, for whose opinions I have the highest respect. I confess, too, that he is much better able to ascertain the price of foreign articles than I am; but I believe, with regard to this one of Madeira wine, I have it in my power to ascertain it pretty well. I take it, that a pipe of wine usually costs at Madeira from twenty-five to thirty pounds sterling; but then I would wish the committee to take into consideration that this wine is paid for there in our own produce at a very advantageous rate, which reduces the nominal sterling sum down in value to a like sum of our currency. I therefore look upon it, that we may calculate the cost of a gallon of Madeira wine at one dollar; for I cannot conceive that any gentleman entertains an idea of taxing the risk the merchant runs in importing the wine, or the increased value it obtains during the time it takes to ripen for sale. In laying our duties we ought to apportion it to the value of the article at the time and place of importation, without taking advantage of such adventitious circumstances. Beside, there is a considerable loss attends keeping Madeira. The storage is no inconsiderable expense, and the evaporation is an actual loss in quantity, which the merchant is obliged to replace by filling up the cask. Under these considerations, I think it may be admitted, that twenty or twenty-five cents per gallon is a sufficient tax. Moreover, it may be easily demonstrated, that such a duty would be more productive than fifty cents; because it would be with greater certainty collected. There is another reason that induces me to think twenty cents more proper; fifty cents for a gallon of wine is a large sum for a merchant to lay down in duties; it must abridge his mercantile operations, and consequently tend to discourage the Madeira trade, which, in my humble opinion, is one of the most advantageous America has left to her, from the selfish policy that actuates some foreign Powers; therefore we ought not to burthen it to so great a degree as the proposed duty seems to have in contemplation.

Mr. LAWRENCE thought that a pipe of Madeira was not worth more than he had before intimated at the time it was imported. It was true, that as the wine increased in age it became more valuable, and, on an average, might be valued at the time of consumption at about two hundred dollars; now, if he was right, and from the observations that were already made, he

APRIL 14, 1789.]

Duties on Imports.

[H. OF R.]

concluded that laying a duty of fifty cents would be fifty per cent. on the value, or rather more, because a pipe of Madeira generally held more than one hundred gallons, and its value seldom on the importation exceeded one hundred dollars. He thought it would operate as a premium to encourage smuggling, and therefore was not inclined to vote for more than twenty cents.

Mr. FITZSIMONS withdrew his motion for fifty cents, and moved thirty-three and one-third cents.

The question was put upon thirty-three and one-third cents as the highest sum, and agreed to, being twenty-one votes for it, and nineteen against it.

The next article, "on all other wines," presented itself in order for the consideration of the committee.

Mr. HEISTER observed, there were a great variety of wines included in that general expression, the prices of which were very different; some worth even more than Madeira, and others less: he submitted, therefore, to the committee the propriety of discriminating and taxing them according to their value.

Mr. BOUDINOT acquiesced in the remark.

Mr. FITZSIMONS did not think it worth while, at this time, to engage the committee in making such a discrimination. The rich wines were imported in no very considerable quantities, and if the duty was laid pretty high, it would tend to exclude the most inferior and low wines from being introduced.

It was thereupon agreed to lay twenty cents on all other wines.

The next article on the list was "bohea tea," on which

Mr. FITZSIMONS observed, that he meant this article not only as a revenue, but as a regulation of a commerce highly advantageous to the United States. The merchants of this country have, from a variety of circumstances, and finding their trade restrained and embarrassed, been under the necessity of exploring channels to which they were heretofore unaccustomed. At length they have succeeded in discovering one that bids fair to increase our national importance and prosperity, while at the same time it is lucrative to the persons engaged in its prosecution. I mean, sir, the trade to China and the East Indies. I have no doubt but what it will receive the encouragement of the Federal Government for some time to come. There is scarcely any direct intercourse of this nature, but what requires some assistance in the beginning; it is peculiarly necessary in our case, from the jealousy subsisting in Europe of this infant branch of commerce. It has been thought proper, under some of the State governments, to foster and protect a direct communication with India. I hope the Government of the United States has an equal disposition to give this trade their encouragement.

I wish, therefore, the committee would pass over the article for the present, and permit it

to come in at another place in the list, where I mean to move a discrimination in the duty on teas, according as they are imported, directly from China in our own ships, or in any ships from Europe.

Mr. MADISON expressed an apprehension that if the two objects of revenue and commerce were blended together on enumerated articles, it would be difficult to fix a scale of duties that would be satisfactory. He wished, therefore, to keep the first object distinct, lest some extraordinary trouble should be given the committee in distinguishing the degree of encouragement proper to be allowed. When the article of tonnage on foreign and domestic vessels came to be ascertained, the point the worthy member from Pennsylvania (Mr. FITZSIMONS) meditated, might be properly considered.

Mr. PARKER thought the proposition, hinted by the gentleman from Pennsylvania, required time for consideration, especially as it was novel, no indication having before been given on the business. He moved, therefore, the rising of the committee.

Mr. FITZSIMONS did not think the argument just used for the committee's rising was sufficient to warrant them in agreeing to the motion. The part of the proposition under consideration, which he wished to alter, might stand postponed, in order to give gentlemen time to turn their attention and inquiries to such an important subject. He did not think, by any means, that a combination of the objects of revenue and protection of trade was so difficult as had just been represented; however, for the present, he waved an inquiry into the subject, and hoped the committee would pass it over for the present, and go on to the following articles.

The articles of teas and pepper were passed over for the present.

Mr. BOUDINOT proposed one cent per pound on sugar.

Two cents were afterwards proposed, when

Mr. FITZSIMONS remarked, that one gallon of molasses weighed eight pounds; that at six cents it did not pay a cent per pound; could it, therefore, be called anywise equal to such a tax on sugar? Moreover, sugar is an article of as general consumption as molasses, and when it is of this inferior quality, it enters as much or more into the consumption of the poor as the other, while, at the same time, molasses will sweeten more, according to its weight, than even the best sugar; from which considerations, I think gentlemen will be satisfied by putting it on an equality with molasses; therefore I do not oppose the one cent.

On the question, the committee agreed to tax it but one cent per pound, and loaf sugar three cents per pound. All other sugars one and a half cent per pound. On coffee two and a half cents per pound.

On motion of Mr. BLAND, the committee rose and reported progress. Adjourned.

H. OF R.]

Duties on Imports.

[APRIL 15, 1789.]

WEDNESDAY, April 15.

Mr. TUCKER presented the petition of David Ramsay, of the State of South Carolina, setting forth that he had, at a great expense of time and money, published a book, entitled "The History of the Revolution of South Carolina, from a British Province to an independent State;" that he had also prepared, and purposes shortly to publish, another book under the title of the "History of the American Revolution," and praying that a law may pass for securing to the petitioner, his heirs and assigns, for a certain term of years, the sole and exclusive right of vending and disposing of the said books within the United States.

Also, a petition of John Churchman, setting forth that, by several years' labor, close application, and at great expense, he hath invented several different methods by which the principles of magnetic variation are so explained, that the latitude of a place being given, its longitude may be easily determined; and praying that a law may pass for vesting in the petitioner, his heirs and assigns, an exclusive right of vending spheres, hemispheres, maps, charts, and tables, on his principles of magnetism, throughout the United States; as, also, that he may receive the patronage of Congress to enable him to perform a voyage to Baffin's Bay, for the purpose of making magnetical experiments to ascertain the causes of the variation of the needle, and how near the longitude may be thereby ascertained.

Ordered, That the said petitions be referred to a committee of three, and that Messrs. TUCKER, WHITE, and HUNTINGTON, be the said committee.

A petition of David Ramsay, of the State of South Carolina, was presented to the House and read, setting forth that Mr. William Smith, a member returned to serve in this House as one of the representatives for the State of South Carolina, was, at the time of his election, ineligible thereto, and came within the disqualification of the third paragraph of the constitution, which declares "that no person shall be a representative who shall not have been seven years a citizen of the United States," and praying that these allegations may be inquired by the House.

Referred to the Committee on Elections.

Mr. BENSON, from the committee to whom it was referred to consider of and report to the House respecting the ceremonial of receiving the President, and to whom was also referred a letter from the Chairman of a Committee of the Senate to the SPEAKER, communicating an instruction from that House to a committee thereof, to report if any, and what, arrangements are necessary for the reception of the President, made the following report:

"That Mr. Osgood, the proprietor of the house lately occupied by the President of Congress, be requested to put the same, and the furniture therein, in proper condition for the residence and use of the

President of the United States, to provide for his temporary accommodation.

"That it will be most eligible, in the first instance, that a committee of three members from the Senate, and five from the House of Representatives, to be appointed by the Houses respectively, to attend to receive the President at such place as he shall embark from New Jersey for this city, and conduct him without form to the house lately occupied by the President of Congress, and that at such time thereafter, as the President shall signify it will be convenient for him, he be formally received by both Houses.

"That a committee of two members from the Senate, and three members from the House of Representatives, to be appointed by the Houses respectively, wait on the President of the United States, as soon as he shall come to this city, and, in the name of the Congress of the United States, congratulate him on his arrival."

And a committee of five was balloted for and chosen accordingly, for the purpose of waiting on the President.

Another committee of three was appointed to wait on the Vice President.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. PAGE in the chair; the question being on inserting, in the list of dutiable articles, beer, ale, and porter—

Mr. FITZSIMONS meant to make an alteration in this article, by distinguishing beer, ale, and porter, imported in casks, from what was imported in bottles. He thought this manufacture one highly deserving of encouragement. If the morals of the people were to be improved by what entered into their diet, it would be prudent in the national Legislature to encourage the manufacture of malt liquors. The small protecting duties laid in Pennsylvania had a great effect towards the establishment of breweries; they no longer imported this article, but, on the contrary, exported considerable quantities, and, in two or three years, with the fostering aid of Government, would be able to furnish enough for the whole consumption of the United States. He moved nine cents per gallon.

Mr. LAWRENCE seconded the motion. He would have this duty so high as to give a decided preference to American beer; it would tend also to encourage agriculture, because the malt and hops consumed in the manufacture were the produce of our own grounds.

Mr. SMITH (of Maryland) was opposed to such high duties as seemed to be in the contemplation of some members of the committee. He thought enough might be raised if the tax was lowered. He formed this opinion from some calculations he had made with respect to the imports at Baltimore. He stated them to amount for the last year, at the rate now proposed, to £258,163; to this, if he added five other districts in Maryland, the probable amount of which, on the same principle, would be £185,537; then,

APRIL 15, 1789.]

Duties on Imports.

[H. OF R.]

these two sums multiplied by twelve, the supposed proportion that Maryland ought to bear of the national debt, would produce £5,324,400, a sum exceeding very considerably what the wants of the Union required.

Mr. GALE thought a duty of nine cents would operate as a prohibition upon the importation of beer and porter. He remarked the advantages which America possessed in growing malt and hops for the manufacture of these articles. In addition to this, the risk and expense of bringing it from Europe was to be considered. Upon the whole, he concluded so high a duty as nine cents would give the brewers here a monopoly, defeat the purpose of obtaining revenue, enhance the price of the consumer, and thereby establish the use of spirituous liquors. For these considerations he was against that sum.

Mr. SINNICKSON declared himself a friend to this manufacture, and thought if the duty was laid high enough to effect a prohibition, the manufacture would increase, and, of consequence, the price be lessened. He considered it of importance, inasmuch as the materials were produced in the country, and tended to advance the agricultural interest.

Mr. MADISON moved to lay an impost of eight cents on all beer imported. He did not think this sum would give a monopoly, but hoped it would be such an encouragement as to induce the manufacturer to take deep root in every State in the Union; in this case, it would produce the collateral good hinted at by the gentleman from New Jersey, which, in his opinion, was an object well worthy of being attended to. He observed, that, in the State of New York, the article paid a duty equal to six cents on importation, and if brought in foreign vessels, it amounted to eight cents; and yet quantities of it were still imported, which proved that eight cents would not amount to a prohibition.

The committee agreed hereupon to charge it at eight cents.

On all beer, ale, or porter, imported in bottles, per dozen, twenty-five cents. Agreed to without debate.

On every barrel of beef it was moved to lay a duty of a dollar per barrel.

Mr. BLAND thought that very little revenue was likely to be collected on this article, let the duty be more or less; and as it was to be had in sufficient quantities within the United States, perhaps a tax amounting to a prohibition would be proper.

Mr. THATCHER admitted that there was beef enough to be got in every part of the country, but it was fresh beef. Some States, from local circumstances, were unable to salt and preserve it, therefore a tax on this article would operate as a partial tax upon those States. If there is a sufficient quantity in the other States to answer their own consumption, they will feel no part of the burthen; but it appeared unnecessary to him to lay this restriction, because he found some States capable of exporting beef on terms as reasonably low as any other

country could, and it could not, therefore, be contended for as a requisite encouragement to this branch of the agricultural interest.

Mr. GOODHUE did not contend that it was necessary to lay a particular duty on beef, although it was among the enumerated articles admitted by the committee. He was satisfied of the fact, that meat could be put up here cheaper than in Europe, and afforded at a less price, so there was little to apprehend from rivalry.

Mr. MADISON thought that almost every State in the Union had more of this article than was necessary for its own consumption, and consequently there was no danger of its being imported, unless the quality of the foreign beef was superior. He would not object to gentlemen gratifying themselves with this meat, especially as the consumption was neither so great or general as to effect the revenue, and therefore he judged it might be struck out.

Mr. TUCKER thought with the gentleman from Virginia, that the regulation was unnecessary, and that it would be better to throw it into the common mass, taxable at a certain rate per cent. He therefore moved to have it struck out.

Upon these considerations the articles of beef, pork, and butter, were all struck out.

Mr. FITZSIMONS moved to lay a duty of two cents on all candles of tallow per pound.

Mr. TUCKER observed, that some States were under the necessity of importing considerable quantities of this article also, while others had enough, and more than enough, for their own consumption, therefore the burthen would be partially borne by such States. As the committee had just rejected some articles upon this principle, he would move that this be struck out likewise.

Mr. FITZSIMONS.—I am not for striking out, sir. Every article imported into the State that gentleman represents, from which revenue is to be raised, he moves to have struck out; but I wish the committee to consider a moment before they join in sentiments with him. The manufacture of candles is an important manufacture, and far advanced towards perfection. I have no doubt but, in a few years, we shall be able to furnish sufficient to supply the consumption of every part of the continent. In Pennsylvania we have a duty of two pence per pound, and under the operation of this small encouragement the manufacture has gained considerable strength. We no longer import candles from Ireland or England, of whom a few years ago we took considerable quantities; the necessity of continuing those encouragements which the State Legislatures have deemed proper, exist in a considerable degree; therefore it will be politic in the Government of the United States to continue such duties till their object is accomplished.

Mr. TUCKER would be glad to know what article it was that South Carolina would not contribute her full proportion of tax upon—he saw none; on the contrary, so far as the enumera-

H. of R.]

Duties on Imports.

[APRIL 15, 1789.]

tion went, the impost would bear unequally upon her, and he feared many others in the list would increase the imposition. He thought it the duty of the committee to guard against an unequal distribution of the public burthen in every case, and therefore wished the duty on this article to be a moderate one; not because it affected the State he represented, for it did not do this to any degree, as wax candles were there principally consumed, the material for which was the production of the Southern States, but because other States, not having this advantage, might be oppressed.

Mr. Boudinot apprehended most States imported considerable quantities of this article from Russia and Ireland; he expected they would be made cheaper than they could be imported, if a small encouragement was held out by the Government, as the materials were to be had in abundance in our country.

Mr. Lawrence thought that if candles were an object of considerable importation, they ought to be taxed for the sake of obtaining revenue, and if they were not imported in considerable quantities, the burthen upon the consumer would be small, while it tended to cherish a valuable manufacture. He seconded Mr. Frizzimons's motion for two cents: which was carried in the affirmative upon the question being put.

On all candles of wax or spermaceti, per lb. six cents; cheese, four cents; soap, two cents; boots, per pair, fifty cents; on all shoes, slippers, or goloshes made of leather, ten cents; on all shoes or slippers made of silk or stuff, ten cents; on all steel unwrought, per 112 lbs., —.

Mr. Lee moved to strike out this last article, observing that the consumption of steel was very great, and essentially necessary to agricultural improvements. He did not believe any gentleman would contend, that enough of this article to answer consumption could be fabricated in any part of the Union: hence it would operate as an oppressive, though indirect tax upon agriculture, and any tax, whether direct or indirect, upon this interest, at this juncture, would be unwise and impolitic.

Mr. Tucker joined the gentleman in his opinion, observing that it was impossible for some States to get it but by importation from foreign countries. He conceived it more deserving a bounty to increase the quantity, than an impost which would lessen the consumption and make it dearer also.

Mr. Clymer replied, that the manufacture of steel in America was rather in its infancy; but as all the materials necessary to make it were the produce of almost every State in the Union, and as the manufacture was already established, and attended with considerable success, he deemed it prudent to emancipate our country from the manacles in which she was held by foreign manufactures. A furnace in Philadelphia, with a very small aid from the Legislature of Pennsylvania, made three hundred tons in two years, and now makes at the rate of two hundred

and thirty tons annually, and with a little further encouragement would supply enough for the consumption of the Union. He hoped, therefore, gentlemen would be disposed, under these considerations, to extend a degree of patronage to a manufacture which a moment's reflection would convince them was highly deserving protection.

Mr. Frizzimons judged that the gentlemen who were against the article had taken for granted what was not founded in fact. It was said, that it would operate as an oppressive tax upon agriculture, and could not be obtained otherwise than from foreign countries. The first objection depended upon the sum with which the blank should be filled up; for his part, he had not an idea of increasing it beyond five shillings per hundred weight; this would affect the agricultural interest very little, even suppose it was to be paid upon all that was used; but he hoped to prove that sufficient quantities could be made in America for her consumption. My colleague has stated, and I believe very justly, that in Philadelphia they made, in less than two years, three hundred tons, and if the demand was increased, they could manufacture as many thousands, with a small encouragement from the General Government. Suppose five shillings per hundred weight was imposed, it might be, as stated, a partial duty, but would not the evil be soon overbalanced by the establishment of such an important manufacture? — a great and principal manufacture for every agricultural country, but particularly useful in the United States. When viewed in this light, he had no doubt but every member of the committee would readily assent to a small duty.

Mr. Madison thought the object of selecting this article to be solely the encouragement of the manufacture, and not revenue, for on any other consideration it would be more proper, as observed by the gentleman from Carolina, (Mr. Tucker) to give a bounty on the importation. It was so materially connected with the improvement of agriculture and other manufactures, that he questioned its propriety even on that score. A duty would tend to depress many mechanic arts in the proportion that it protected this; he thought it best to reserve this article to the non-enumerated ones, where it would be subject to a five per cent. ad valorem.

Mr. Tucker considered the smallest tax on this article to be a burthen on agriculture, which ought to be considered an interest most deserving protection and encouragement; on this is our principal reliance, on it also our safety and happiness depend. When he considered the state of it in that part of the country which he represented on this floor, and in some other parts of the Union, he was really at a loss to imagine with what propriety any gentleman could propose a measure big with oppression, and tending to burthen particular States. The situation of South Carolina was melancholy; while the inhabitants were deeply in debt, the produce of the State was daily falling in price. Rice and

APRIL 15, 1789.]

Duties on Imports.

[H. OF R.]

indigo were become so low, as to be considered by many not objects worthy of cultivation; and gentlemen will consider, that it is not an easy thing for a planter to change his whole system of husbandry in a moment; but accumulated burthens will drive to this, and add to their embarrassments. He thought an impost of five per cent. as great an encouragement as ought to be granted, and would not oppose that being laid. He called upon gentlemen to exercise liberality and moderation in what they proposed, if they wished to give satisfaction and do justice to their constituents.

Mr. FRZSIMONS thought, if gentlemen did not get rid of local considerations, the committee would make little progress. Every State will feel itself oppressed by a duty on particular articles, but when the whole system is perfected, the burthen will be equal on all. He did not desire, for his part, to obtain exclusive advantages for Pennsylvania; he would contend, and undertake to prove, that by the duties already agreed to, that State sacrificed as much as any other. Indeed, if he had said more, he believed himself capable of proving the position. Being of this opinion, he hoped the committee would agree to grant her an advantage which would revert back upon the other parts of the Union, without operating, even for the present, to the material disadvantage of any. Some States were, from local circumstances, better situated to carry on the manufacture than others, and would derive some little advantage on this account in the commencement of the business. The Eastern States were so situated, perhaps some of the Middle ones also; but will it therefore be insisted upon, that the Southern States pay more of the impost on foreign goods than these? For his part, he never could conceive that the consumption of those articles by the negroes of South Carolina would contribute to the revenue as much as that of the white inhabitants of the Eastern States. But laying aside local distinctions, what operates to the benefit of one part in establishing useful institutions, will eventually operate to the advantage of the whole. With these considerations, he cheerfully submitted the article to the discretion of the committee, moving to fill the blank with sixty-six cents.

Mr. BLAND considered a tax of sixty-six cents a very heavy duty on agriculture and the mechanic arts, and was averse to granting it.

Mr. BOUDINOT moved fifty-six cents, which motion was agreed to.

On nails and spikes, it was agreed to lay one cent per pound; on tared cordage, fifty cents per 112 pounds; on untared cordage, sixty cents per 112 pounds; on twine or pack-thread, one hundred cents per 112 pounds.

Mr. MADISON said, that he was not clear as to the policy of taxing cordage. He thought ship-building an object worthy of legislative attention, and questioned the propriety of raising the price of any article that entered so materially into the structure of vessels. But if it was

politic to lay an impost on cordage, would it not be the same with regard to hemp? He thought it would, and therefore moved it.

Mr. BOUDINOT.—Hemp is a raw material, necessary for an important manufacture, and therefore ought not to be subject to a heavy duty. If it was the product of the country in general, a duty might be proper, but this he believed was not the case.

Mr. MADISON.—I said before, I very much doubted the propriety of laying a duty on such articles as entered into ship-building; but if it is necessary to lay a duty on cordage for the purpose of encouraging the manufacture, and making us independent of the world as to that article, it is also politic to endeavor to make us alike independent for the raw material; a great proportion of the land in the Western country is peculiarly adapted to the growth of hemp, and it might be there cultivated to advantage, if the labors of the husbandman were protected by the Government.

Mr. BOUDINOT thought the soil of this country ill adapted to the cultivation of hemp; even the strong low lands which are fit for it, soon became exhausted; it impoverished the lands wherever it grew, and destroyed the agricultural stamina. If he was not mistaken in this opinion, he thought the committee would, with him, disagree to the motion.

Mr. PARTRIDGE thought a duty on hemp would tend to discourage the American navigation, her trade, and fisheries, without any good resulting to warrant such an injury. It was not ascertained whether hemp could be furnished in any tolerable quantities to answer the demand, and if, upon experience, it should be found that the quantity was insufficient, what a stab this would prove to all concerned in ship-building.

Mr. AMES expressed a doubt of the policy of taxing either cordage or hemp, because while it tended to encourage the agriculture or manufacture, it discouraged the maritime interest, and therefore the discouragement, in the event, would reflect back upon those interests it was intended to cherish.

Mr. MOORE declared the Southern States well calculated for the cultivation of hemp, and, from certain circumstances, well inclined thereto. He conceived it the duty of the committee to pay as much respect to the encouragement and protection of husbandry (the most important of all interests in the United States) as they did to manufactures.

Mr. FITZSIMONS thought there was a clear distinction between taxing manufactures and raw materials, well known to every enlightened country. He had no doubt, but hemp enough could be raised for the home consumption, nay for exportation also, and why it was not done he could not say. He recollected that, before the revolution, very little was imported; now, considerable quantities are brought from England. When such a bulky article is capable of paying double freight, first from Russia and

H. OF R.]

Duties on Imports.

[APRIL 16, 1789.]

then from England, besides its first cost, he conceived that what was produced in America had a very considerable advantage. It could not be urged that the people are unacquainted with the cultivation, because it had been carried to very great perfection in former years. If eight dollars a hundred is not a sufficient inducement to farmers to raise hemp, it is a proof that they direct their labors to more profitable productions, and why should legislative authority be exercised to divide their attention? Or for this purpose, why should navigation and ship-building be necessarily burthened. He concluded with declaring, that no duty which the Congress would agree to lay, could give encouragement to the cultivation of hemp, if the present price of that article was insufficient.

Mr. SCOTT stated a fact or two, being perhaps as well acquainted with the Western country as any member of the committee. The lands along the frontiers, he could assure the committee, were well calculated for the cultivation of this plant; it is a production that will bear carriage by land better than any other, tobacco not excepted. He believed an encouragement of the kind now moved for would bring, in a year or two, vast quantities from that country, at little expense, to Philadelphia, even from the waters of the Ohio; the inhabitants expect some encouragement, and will be grateful for it. Although a gentleman has called it a bulky article, yet as much can be packed upon a horse as a horse can carry, or in a wagon as four horses can draw; so that its bulk will not prevent our countrymen from seeking a market on the waters of the Atlantic.

The committee rose and reported, and
The House adjourned.

THURSDAY, April 16.

A bill to regulate the taking the oath or affirmation prescribed by the sixth article of the constitution, was read the second time, and ordered to be committed to a Committee of the whole House on Monday next.

The House proceeded, by ballot, to the appointment of a committee of five, to attend, with a committee from the Senate, to receive the President of the United States at such place as he shall embark at from New Jersey for this city.

The members elected were Messrs. BOUDINOT, BLAND, TUCKER, BENSON, and LAWRENCE.

On motion,

Ordered, That Messrs. GILMAN, AMES, and GALE, be a committee, in conjunction with a committee from the Senate, to wait upon the Vice President of the United States upon his arrival in this city, and to congratulate him thereupon in the name of the Congress of the United States.

DUTIES ON IMPORTS.

The House again resolved itself into a committee of the whole on the State of the Union, Mr. PAGE in the Chair.

Mr. HARTLEY.—Notwithstanding what gentlemen had said yesterday to enforce the propriety of laying a duty on hemp, it was in the knowledge of every gentleman, that America did not furnish this article in quantities sufficient for its consumption; any restraint, therefore, on the importation of the raw material would strike at the root of the manufacture. A contrary policy was pursued by England in all cases where a raw material was necessarily imported. He conceived that the sense of the committee was already expressed to counterbalance the making of cordage, which is a most necessary and valuable branch of ship-building, therefore he doubted the policy of the proposed measure, but, for the sake of conciliation, he would agree to a very small duty.

Mr. MOORE thought it good policy to encourage the manufacture of cordage, but was not convinced that it was bad policy to encourage likewise the growth of the raw material in America, so that we might become as independent of all the world for this article, as we are already for every other used in the structure of vessels. He believed it would be difficult to persuade the farmer that his interest ought to be neglected to encourage particular artisans: he therefore begged the committee to do as much for them as was in their power, believing that the event of such policy would mutually benefit the manufacturer and agriculturist.

Mr. HEISTER remarked, that a heavy duty on hemp would not encourage the raising of it this year, because the time was elapsed for commencing the cultivation; but a duty, to take place at some future time, would no doubt be beneficial. He assured the committee of the ability of the land in America to grow hemp equal to any part of the world; and, therefore, joined heartily in giving it legislative encouragement, in order to induce the people to turn their attention more particularly to the subject, but would recommend the duty to be laid so as to commence its operation at a distant day.

Mr. WHITE remarked, what was good policy in England might be the contrary in America. England was a maritime nation, and therefore she gave a bounty on such articles as were requisite to support her maritime importance—America was an agricultural country, and therefore ought to attend to the encouragement of that interest. If the Legislature take no notice of this article, the people will be led to believe it is not an object worthy of encouragement, and the spirit of cultivation will be damped; whereas, if a small duty only was laid, it might point out to them that it was desirable, and would induce an increase of the quantity. Our lands are capable of bearing this plant many years without being exhausted. He could not say exactly what sum would be proper to fill the blank with, but mentioned seventy-five cents for the consideration of the committee.

Mr. PARTRIDGE admitted the propriety of encouraging agriculture, but it ought not to be done at the expense of the ship-builders, espe-

APRIL 16, 1789.]

Duties on Imports.

[H. OF R.]

cially as the good would not balance the evil. He told the committee that hemp had risen, within three or four years, forty per cent. in Russia, owing, perhaps, to the increased demand which the present northern war occasioned. This naturally operated to encourage the cultivation in America, and perhaps was sufficient, without the aid now intended to be given. If gentlemen were desirous of having it stand among the selected articles, he should not object, but hoped the duty would not exceed five per cent. Forty cents were about equal to that rate, and he moved to fill the blank with that sum.

Mr. LAWRENCE.—A high duty would prevent the importation of hemp, and encourage that of cordage; so that the raw material would be lessened for the manufacture, and the quantity of foreign ready-made cordage increased. The effect of this would be the annihilation of the manufacture, without any advantage to the husbandman; for when sufficient quantities could be raised, there would be no person to work it up; or, if gentlemen persisted in laying a duty on hemp, they must agree to reconsider that on cordage, for the purpose of raising it, in order to make the two bear such a proportion, as that the home manufacture might have a preference over the foreign.

Mr. GOODHUE was disposed to lay a duty on hemp for the purpose of encouraging the cultivation, but he did not think that the duty on cordage was proportioned to what the gentleman from Virginia (Mr. WHITE) had proposed on hemp. He therefore insisted on the propriety of raising the former.

Mr. PARTRIDGE informed the committee, that the State of Massachusetts imposed only a duty of one per cent. on the importation of hemp, which was applied to form a bounty of a dollar per hundred weight on that raised within the State.

Mr. BOWDINOT took it for granted that hemp would be subjected to a duty, and accorded with the gentleman from Massachusetts in making it forty cents. He thought this would combine the two interests in such a manner as to do the most good and least evil. He confessed that he was against taxing this article, because of the uncertainty which he conceived there was of raising it in America; but as that point was determined against him by the testimony of gentlemen well qualified to judge, he would acquiesce in laying a small duty.

Mr. HARTLEY preferred giving a bounty on hemp of American growth, to taxing the foreign, because the existence of the manufacture, and of ship-building also, was involved in the price of the raw material. He hoped America would soon become in reality what nature had destined her to be—a maritime nation. He therefore could not think it good policy to pursue measures which must cramp the growth of a fleet.

Gentlemen had made some remarks upon a country well qualified for the cultivation of hemp; he believed what had been advanced

was fact. He should say nothing at this time to ascertain how far it would be proper to endeavor to settle the Western country. Though he had a real friendship for that new world, yet the policy of taxing the navigation of the Atlantic States for the purpose of encouraging their agriculture, was a question worthy of some consideration. He would add no more, but a wish that the committee would lay the duty low.

Mr. MOORE made some observations on the propriety of encouraging the home manufactures. It had already been mentioned as incongruous to blend the subject in the present bill, therefore would say nothing on that point; but it was undoubtedly the interest of the husbandman to get what he wanted at the cheapest rate. By the encouragement given to manufactures you raise them in price, while a competition is destroyed which tended to the advantage of agriculture. He thought the manufacturing interest ought not to stand in the way of the other; but as the committee had agreed to give it encouragement, he hoped the other would receive its share of legislative support. Seventy-five cents on hemp will not more than equal what was laid on cordage, and therefore he should vote for it.

Mr. WHITE thought with the gentleman from Pennsylvania, that the United States would furnish this article in sufficient abundance, not only for home consumption, but for exportation. The maritime powers of Europe do not raise the article, but obtain it principally from Russia—these powers are as well disposed to take it from us as from Russia. Our back lands are extremely well adapted to its cultivation; a road to bring it to market is opening; the Potomac extends her now navigable waters into the interior country, and a communication will be established with the river Ohio and the western waters. The gentleman from Pennsylvania (Mr. HARTLEY) had hinted at the propriety of settling the western territory; it was his opinion that every encouragement ought to be given them to engage their affection; that the administration of the Government ought to be such as to give satisfaction to all parts of the Union, but it is peculiarly our interest to render that country advantageous; her fertile lands, and streams easy of descent, would pour into the Atlantic States, through the channels he had mentioned, a profusion of wealth, and hemp in abundance. The Shenandoah river disembogues into the Potomac, the South Branch communicates with it also, and a number of other rivers whose lands will produce immense quantities. He considered that this, in a short time, would do more towards encouraging ship-building than a bounty, as had been mentioned by some gentlemen.

Mr. SCOTT thought he had as perfect a sense of the relation between agriculture and commerce, as any man; in a word, he knew the one could ill exist without the other. I think, adds he, that if the landed interest is ruined by our regulations, the ruin of the manu-

H. OF R.]

Duties on Imports.

[APRIL 16, 1789.]

facturing interest must be a necessary consequence. Our country furnishes none of the precious metals or jewels; we have nothing to depend upon but the products of the soil, and the overplus of these productions is of little value, unless a market takes it off. We have no market but what our merchants procure; hence the necessity of both interests going hand in hand—they must stand or fall together. Agriculture is entitled to its proportion of encouragement, so also are manufactures and commerce, and for no more than that proportion do I contend. Manufacturers are useful establishments; we found their convenience in the last war; but our circumstances do not admit us to become an extensive manufacturing country. We cannot contemplate the exportation of our manufactures to foreign nations; we cannot, by reason of the demand for labor, vie with Europe; her inhabitants are numerous, and their industry would be lost unless employed in the arts; the compensation made to them is comparatively small. But our country, from its extent, is like a world within itself, and its inhabitants will find a readier support from cultivating the land than from manufacturing; the latter interest is limited from its very nature; so that I take it for granted it is not intended to sacrifice the one interest to the other. I said yesterday, that a small duty on imported hemp would produce a great quantity from a country now useless to us in a considerable degree. Hemp will bear the expense of carriage, which no kind of grain can; and, consequently, increase the value of our vacant territory; but if there was no convenience by the route of the Potomac, or across the mountains, to bring to your seaports the hemp which you want, yet the Mississippi would furnish the means; and, with the encouragement, nay, but small encouragement, of the General Government, more of this article would issue out of the mouth of that river alone than the whole of the United States could consume. We who live there are no strangers to its navigation, nor do we find it difficult to construct boats of great dimensions, capable of floating down many tons; but large quantities will be furnished also from the strong and vigorous lands in the back parts of Pennsylvania and other States. I know very well both the nature of the plant and its cultivation. It will exhaust lands, as said by the gentleman from New Jersey, (Mr. Boudinot,) but it is not to be apprehended as doing injury to those I have described. Considering this business of great importance to the whole Union, I shall be in favor of it, knowing that if the people on the other side of the mountains only hear of the encouragement being proposed by Congress, they will lay hold of it as a hope, and be encouraged to draw forth the bounties of nature from a rich and fertile soil.

Mr. BURKE thought it proper to suggest to the committee what might be the probable effect of the proposed measure in the State he represented, (South Carolina,) and the adjoining

one (Georgia.) The staple products of that part of the Union were hardly worth cultivation, on account of their fall in price; the planters are, therefore, disposed to pursue some other. The lands are certainly well adapted to the growth of hemp, and he had no doubt but its culture would be practised with attention. Cotton is likewise in contemplation among them, and if good seed could be procured, he hoped it might succeed. But the low, strong, rice lands, would produce hemp in abundance—many thousand tons even this year, if it was not so late in the season. He liked the idea of laying a low duty now, and encouraging it against the time when a supply might be had from our own cultivation.

Mr. MADISON feared seventy-five cents was too high; he was doubtful whether it would not have been as well to have left out cordage; for if a duty on hemp was impolitic because it burdened navigation, so also was that on cordage. He by no means approved of measures injurious to ship-building, which he considered in a three-fold view: first, as it related to vessels employed in the coasting trade; second, as it respected those employed in those channels of trade, the stream of which depends upon the policy of foreign nations; and third, as it was connected with vessels built for sale. With respect to the first, no doubt but we can prevent any discouragement from the operation of the duty, because we can make such discrimination as will prevent a rivalry; but, in relation to the two other points, and particularly the last, he was sensible that every penny laid upon cordage would enter into the price of the vessel, and, by raising the price, drive the purchasers to seek a better bargain at other hands. Fearful therefore of injuring this interest, he should vote for a small duty at present, in hopes of being able to see, in a little time, sufficient quantities of hemp brought to market, as predicted, at even a less price than is given now for the imported.

Mr. SMITH agreed to forty cents, provided the committee would make it one dollar at the end of two years.

Mr. MADISON could not judge of the alteration in the circumstances of this country two years hence, and therefore did not like the kind of provision mentioned. He preferred making it a positive sum, and moved fifty cents; which was agreed to.

On malt.

Mr. SHERMAN thought this might be struck out, on the same principle that beef and pork had been, there was none imported.

Mr. FITZSIMONS replied, that there had been considerable and recent importations of this article into the United States—30,000 bushels in one year; certainly this interferes with the products of the country. He moved ten cents per bushel, and it was agreed to.

On motion of Mr. AMES, barley was taxed six cents, and lime one hundred cents. He just stated that these articles were imported in

APRIL 16, 1789.]

Duties on Imports.

[H. OF R.]

considerable quantities from a neighboring State that had not yet adopted the constitution; and, perhaps, said he, our political situation is such as to make some regulation on this head necessary.

On nails, spikes, tacks, and brads.

MR. LEE did not think we were ripe for such extensive manufactures as some gentlemen seemed desirous of encouraging; but this was particularly objectionable, because it was a tax upon the improvement of estates, unless the articles could be furnished as cheap and abundantly at home as they were by foreign nations. He moved to strike it out.

MR. MADISON conceived this, like a tax on hemp, would increase the price on ship-building; spikes and nails were necessary for the construction of vessels.

MR. BLAND thought a duty on nails an unequal tax, burthening the Southern States, but not felt by the Northern, who made only enough for their own consumption; he opposed it also on account of its being an article of indispensable necessity.

MR. GOODHUE informed the gentlemen who were opposed to a duty on nails, that great quantities of them were manufactured for exportation in Massachusetts and Pennsylvania, and he believed some other States; and, in a little time, enough might be made to supply all North America.

MR. AMES thought this a useful and accommodating manufacture, which yielded a clear gain of all it sold for, but the cost of the material; the labor employed in it would be thrown away, probably, in many instances. It could not be said that it required a large capital, or extraordinary abilities, to acquire a knowledge of the art. It has grown up, with little encouragement, to an astonishing degree of perfection; it has become usual for the country people in this State to erect small forges in their chimney corners, and in winter, and on evenings when little other work could be done, great quantities of nails were made even by children; perhaps enough might be manufactured in this way to supply the continent. These people take the rod iron of the merchant, and return him nail; in consequence of this easy mode of barter, the manufacture is prodigiously great. But these advantages are not exclusively in the hands of the people of Massachusetts; the business can be prosecuted in a similar manner in every State exerting equal industry. He hoped the article would remain in the bill.

MR. SHERMAN.—The gentlemen object to these articles because they are necessary, and cannot be furnished in quantities equal to the demand; but I am of opinion, if they cannot now be had in such plenty as is wished for, they may in a very short time. Every State can manufacture them, although they cannot make nail rods. Connecticut has excellent iron ore, of which bars are made; but she gets nail rods from this city—others can do the like; and until every State can supply themselves, by their

own industry, for which purpose they have every thing at their hands, it may not be amiss for the Government to get some revenue from the consumption of foreign nails.

MR. TUCKER judged, from what was said of the little expense and great facility of manufacturing nails, that it stood in no need of legislative assistance. Why lay a duty on foreign nails, when they cannot rival you if you make them as good and as cheap? Will not the five per cent. duty, with freight and shipping charges, be sufficient encouragement? He thought it would, and therefore was averse to any other duty. He observed also, that it would burthen ship-building, and was, consequently, against those employed in that business.

MR. PARTRIDGE observed, that, to the eastward, no spikes at all were imported, and few or no nails, except of some particular kinds. If spikes were not imported to the southward, he would join gentlemen in striking them out.

MR. AMES thought it proper to add a few more observations. The committee were already informed of the flourishing condition of the manufacture, but they ought not to join the gentleman from South Carolina (MR. TUCKER) in concluding that it did not therefore deserve legislative protection. The commerce of America, particularly the southern parts, had, by the force of habit and English connexions, been setting strong upon the British coasts; it required the aid of the General Government to divert it to a more natural course. Good policy and sound wisdom demonstrated the propriety of an interchange between the different States in the Union: to procure this political good, some force was necessary. Laying a small duty on foreign manufactures might induce, from motives of interest as well as inclination, one fellow citizen to barter with, or buy of another, what he had been long accustomed to take from strangers. Allowing this remark its due weight, he had no doubt but the committee would concur in laying a small protecting duty in favor of this manufacture. Again: from the situation of the manufacturer in Europe, and the one in America, he concluded this encouragement was necessary. In Europe, the artisan is driven to labor for his bread; stern necessity, with her rod of iron, compels his exertion; but in America, invitation and encouragement are necessary; without them the infant manufacture droops, and its patron seeks, with success, a competency from our cheap and fertile soil.

MR. FITZSIMONS was not very solicitous about the duty. He thought the manufacturer would have but little to apprehend if the Legislature should decide against them; for, the fact was, that nails were at this moment made cheaper, and, in the opinion of some judges, better than those coming from England. Before the revolution, the people in America were not permitted to erect slitting mills. They now have several, and are independent of all the world for the materials necessary for carrying on the business in the most extensive manner. So far

H. OF R.]

Duties on Imports.

[APRIL 16, 1789.]

as the duty respected the manufacture in Pennsylvania, it was his opinion that refusing it would do no material injury, and he believed it would draw but little money into the treasury; yet, nevertheless, he was willing to allow a small one, because it conformed to the policy of the States, who thought it proper, in this manner, to protect their manufactures. He believed neither spikes nor nails for ship-building were imported; they were generally large and heavy, and were made in the country, according to the builder's orders.

On the motion, nails and spikes were taxed one cent per pound, but tacks and brads were struck out.

On salt, per bushel.

Mr. BURKE.—I need not observe to the committee that this article is a necessary of life, nor that black cattle, sheep, and horses do not thrive without it; on these considerations alone I should oppose it; but I know likewise that it is a tax particularly odious to the inhabitants of South Carolina and Georgia, to whom the price is already oppressively great. The back parts of that State are obliged to haul all they consume, two, three, or four hundred miles in wagons, for which they pay about seven shillings sterling. Add this to the first cost, which is about one shilling, though sometimes more, and you will find the burthen sustained by those who live remote from the sea-shore sufficiently unequal. I hope, therefore, the committee will not agree to it.

Mr. LAWRENCE hoped a duty would be laid on the article; it was in general use, and the consumption so regular, that it was much to be depended upon as a source of revenue; but the duty ought not to be so high as to make it oppressive. The additional burthen to those who live remote from the coast will not be unreasonable; they will pay no greater impost than every other class of consumers, and the tax mixing with the price will be less sensibly felt. The remote settler does not pay on other articles equal to the inhabitant who resides near the Atlantic. He does not consume the linen and cloth of Europe, the tea of the East, the sugar and spirits of the West Indies, in any thing like such proportion. Can he be said then to be oppressed with a small and equal tax upon salt, an article which is consumed equally in the interior and exterior country? He certainly cannot. But there is one observation which may be urged as an objection; being aware of this, he would propose, at a proper time, the allowance of a drawback upon all salted fish and provision exported. He moved to impose a duty of six cents per bushel.

Mr. TUCKER felt an aversion to laying a duty on salt from several motives. It would bear harder upon the poor than upon the rich. The true principle of taxation is, that every man contribute to the public burthens in proportion to the value of his property. But a poor man consumes as much salt as a rich man. In this point of view, it operates as a poll-tax, the most

odious of all taxes; it does not operate simply as a poll-tax, but is heavier on the poor than on the rich, because the poor consume greater quantities of salted provision than the rich. Nor does it bear equally upon every part of the country; for it is consumed in a greater proportion by cattle at a distance, than by those near the sea-shores. Moreover, the duty collected on the importation will enter into the price of the article, and the countryman will pay the retailer a profit on the tax, perhaps of four times its amount. For which reasons, he was more averse to this article being taxed than any other whatsoever.

Mr. SCOTT declared himself decisively against the duty, although he admitted a most certain revenue could be drawn from it, on account of its universal demand and utility. But he did not think these considerations alone amounted to a sufficient reason why this necessary article should be taxed; if they did, the argument would prove too much, it would extend to the use of water and common air. He presumed the old arguments often urged by gentlemen in favor of manufactures did not apply, because no encouragement would be sufficient to establish it.

From the nearest part of the Atlantic coast, where salt can be obtained, to the next nearest in the Western territory, is a distance of eight hundred or one thousand miles; all the intermediate space must be supplied from one or the other; over the mountains it must be carried on pack-horses. This of itself is a sufficient tax upon the consumer; how oppressive then must it be to increase the burthen.

It has been mentioned that this tax will be an odious one. I have no pretension to the gift of prophecy; but I am willing to let my name go to posterity, in giving it as my opinion, that, if you lay a high duty on such an indispensable necessary of life, it will be bad policy, and go nigh to shipwreck the Government. I have reasons of a political nature to support my opinion; but I do not think I should be justified in mentioning them at present, but I will venture to say this much, that I fear it will have a tendency to shake the foundation of your system, which I look upon as the only anchor of your political salvation. Will it not be wise, therefore, to let the administration of your power slide gently along, inoffensive to so great a body? Let them become reconciled to your views, before you stretch out the hand of oppression. Throw salt, if it must be taxed, into the mass of articles, and lay your per cent. a little higher to make up the deficiency. This will be less odious, and, on the score of revenue, amount to the same thing. I consider taxes in this point of view: the exigencies of the Union call for a sum of money annually; it must be raised in some way by a tax on the community. It is no matter to the individual, whether he pays his proportion by a tax on salt, or any other article he consumes, but the wisdom of Government will direct which. The money must be had from some source, and may be

APRIL 17, 1789.]

Duties on Imports.

[H. OF R.]

taken from any; yet prudence will dictate to obtain it by means the least odious, the least unpopular, and most pleasing. All taxes, I admit, are odious, but they are comparatively so. Let, therefore, this article be left out of the enumeration, and do not apply to it until other means have failed, because it would be a very partial and most odious tax.

Mr. MOORE observed upon the inequality, as it respected the consumption of the article by cattle; some States raised more than others, consequently they consumed more; some parts of the same State were in a like situation. The people on the sea-coast pursued merchandise; those in the back parts raised cattle, which he was bold to say consumed five times as much salt as the lower country, and would pay the tax in the same proportion. It has been said, that if they pay more on salt, they pay less on other articles—agreed to. But there are a number more which may perhaps unequally affect them; yet it is an argument of small weight to say, because we in large commercial cities are regulated in a sumptuary manner for indulging in luxuries, you who are obliged to retrench them shall pay a tax upon the necessaries of life. In short, the tax appeared to him not only unpopular, but unjust likewise, and he would not agree to it.

Mr. SMITH (of South Carolina.)—If any further arguments were necessary to convince the committee of the impropriety of the present measure, more might be urged, though what has been said is certainly sufficient to demonstrate that it will be attended with a great deal of dissatisfaction, and in proportion to that dissatisfaction will be the danger of having your laws contemned, opposed, or neglected in the execution. It is well known, that however small the duty, it will furnish a pretext to the seller to extort a much greater sum from the consumer. Another observation. It is believed that the inhabitants of the interior part of South Carolina are opposed to the new Government; it will be a melancholy circumstance to entangle ourselves, at this time, among the shoals of discontent; yet no stronger impulse could be given for opposition than the proposed tax; conceiving it in this light, he was against the measure.

Mr. SCOTT added, that the price of salt where he lived was four dollars a bushel, the country was settled three or four hundred miles beyond him, and he supposed the price there to be greater.

Mr. LAWRENCE thought it would be better for the committee to take time to examine what had been urged against the tax, and as it was the usual time for adjourning, the committee might rise and defer their decision till to-morrow.

Whereupon the committee rose, and the House adjourned.

FRIDAY, April 17.

BENJAMIN CONTEE, from Maryland, appeared and took his seat.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. PAGE in the chair; the question of laying a duty on salt recurred.

Mr. LAWRENCE.—I had the honor yesterday of delivering my sentiments in favor of this duty; but observations were made by gentlemen from different parts of the house against the measure. The principal objection was, that the tax was an odious one. It was admitted by a worthy gentleman from Pennsylvania (Mr. SCOTT) that all taxes are odious; this is certainly true, for the people are not pleased with paying them; nothing but necessity will induce a Government to have recourse to them. It is also true, that some are more odious than others. From what has been said, it may be seen that a tax on salt is not so in general, but only in particular parts of the Union; the remote inhabitants, it is said, will be dissatisfied, because it increases the price of the commodity, and they use more of it than others. It is mentioned as partaking of the nature of a capitation tax, but this kind of tax is odious, more from its manner of operation than its nature. We find in some States where it is in use, the people live easy under it; for example, it is not complained of in some of the Eastern States. We have not much to apprehend from a tax on salt in this State; the people are satisfied with it; at least the complaints are neither so loud or so general, as to make us apprehensive for the existence of the Government we live under. Its operations, though the contrary was predicted, go on with as much ease since an impost has been laid, as they did before. I believe, likewise, we have only to try the experiment, to be convinced it would have a similar effect throughout the continent; for I cannot persuade myself that it is generally looked upon in so odious a light as some gentlemen imagine. It was also said, that the tax would be unequal, and the objects of inequality were two. The poor man would pay as much as the rich; but this is not the case; the rich are generally more profuse in their consumption than the poor; they have more servants and dependents also to consume it; consequently the whole amount of their consumption must be in a proportionable ratio. The other inequality was its different operation in different States, and even different parts of the same State. On examination, this objection also may be obviated. Gentlemen tell you the high price of this article at three or four hundred miles distance; is it not hence presumable that there they consume as little as possible, while along the sea-coasts they use it with a liberal hand? But whether it be consumed on the sea-coast, or on the western waters, the tax is the same, or but inconsiderably augmented; for I take it the great addition which is made is in consequence of the charge of carriage. I cannot, therefore, see by what magic gentlemen will prove to you that it is increased

four or five-fold. We must also take into contemplation the number of persons who consume it; here it will appear, that the weight of population is much greater on the sea-coast than in the western parts of Pennsylvania, Virginia, and Carolina, consequently the consumption must be greater. It was said, the argument I urged was not a good one, because it proved too much, that an article of general consumption was not the best article for taxation; now, I believe the maxim is just, and when examined it will be found so. Taxes, to be just, should affect all, and equally affect them, and not be left to fall partially upon a few. This is more the case with salt than any other article which has yet been taxed, and I believe is the only tax which will get at the pockets of those to whom it is said to be obnoxious. But how comes it, if the other articles are equally consumed in the back countries, that gentlemen did not urge the argument of expense on transportation, and the pretext that a tax would furnish the seller to extort from the consumer.

I believe gentlemen will find it difficult to point out any kind of support which they give to Government, if this duty shall be refused; yet it was hinted that the Government would be endangered if they were called upon for this.

We are now entering on a subject of a delicate nature, and I wish to treat it as such: but I will not suppose the Government hazarded by making a revenue law that is right and justifiable on general principles; if it is, upright men may be willing to risk the consequences. The inhabitants of every part may find in this law some article more burthensome on them than that particular article is on every other part; but yet the aggregate paid by them toward the exigencies of Government is equalled by a disproportion in some other article.

If I did not think the object before the committee of great importance, I would not consume their time in contending for it; but, relying on it as an equitable and very productive fund, I must trespass a few words further. This article is of general consumption; perhaps it may be averaged at three bushels to a family annually; the tax on this will be light, none can be oppressed, and yet it will bring into the treasury a very large sum. If any family consumes more, and expends it upon their cattle, it ought to be considered that it enters into the price of the cattle when brought to market, and ultimately falls upon the consumer.

Mr. MOORE said yesterday, that the duty would operate unequally; he thought so then, and had not yet altered his opinion, because the back inhabitants consumed five times as much as those on the sea-coast; he had expressed no apprehension that the duty would endanger the Government.

Mr. MADISON.—From the nature of the arguments made use of on this occasion, it is necessary to proceed with some circumspection, though not to depart from that policy which can be justified by reason and experience. I am

willing to trust a great deal to the good sense, justice, and penetration of our fellow citizens for support; and though I think it might be just to lay a considerable duty generally on imported articles, yet it would not be prudent or politic, at this time, to do so. Let us now proceed to consider the subject before us, on the principles of justice and principles of policy. In the first point of view, we may consider the effect it will have on the different descriptions of people throughout the United States, I mean different descriptions, as they relate to property. I readily agree that, in itself, a tax would be unjust and oppressive that did not fall on the citizens according to their degree of property and ability to pay it; were it, therefore, this single article which we were about to tax, I should think it indispensable that it should operate equally, agreeably to the principle I have just mentioned. But in order to determine whether a tax on salt is just or unjust, we must consider it as part of a system, and judge of the operation of this system as if it was but a single article; if this is found to be unequal, it is also unjust. Now, examine the preceding articles, and consider how they affect the rich, and it will be found that they bear more than a just proportion according to their ability to pay; by adding this article, we shall rather equalize the disproportion than increase it, if it is true, as has been often mentioned, that the poor will contribute more of this tax than the rich. When we consider the tax as it operates on the different parts of the United States, dividing the whole into the northern, middle, and southern districts, it will be found that they contribute also in proportion to their numbers and ability to pay. If there be any distinction in this respect, it will be perceived to be in favor of the southern division, because the species of property there consists of mouths that consume salt in the same proportion as the whites; but they have not this property in the middle and northern districts to pay taxes for. The most important objection is, that the western part of our country uses more salt than any other; this makes it unequal; but, considered as a part of a system, the equilibrium is restored, when you find this almost the only tax they will have to pay. Will they contribute any thing by consuming imported spirits? Very little. Yet this is a principal source of revenue; they will subsist upon what they procure at home; and will they submit to a direct tax, if they murmur at so light a one on salt? Will they submit to an excise? If they would, I trust it is not in the contemplation of gentlemen to propose it. Certainly it requires but time for reflection to discover, in every point of view, the justice of the measure now proposed. If, then, there be no particular objection on the footing of justice, it must be an argument in favor of the policy; for it cannot be presumed that good policy deviates from the principles of justice. There may exist prejudices against measures founded in the strictest justice and soundest

APRIL 17, 1789.]

Duties on Imports.

[H. OF R.]

policy; but certainly they will flee before reason and conviction. While in search of revenue, for such essential and important purposes as urge us at present, we cannot discriminate, and spare one part of the community. This would be unjust, and excite those complaints which some gentlemen seem to fear.

It has been said, by the enemies of this Government, that its administration would immediately betray the features of tyranny and oppression. It was likewise said, that its operations would be gentle and insinuating at first, in order to obtain the confidence of the people to enable it to supplant the State Governments. Would not a discriminating policy seem to make good these charges? Let us then avoid it with caution, and endeavor to distribute the public burthen with a just and equal hand. In short, under whatever point of view you consider this tax, I think it will be seen to be improper to expunge it. I would make it moderate, and, in so doing, it cannot be unjust, nor can the popular clamor be excited.

Mr. HUNTINGTON had no apprehension of danger arising from the odiousness of the tax in the State he came from; his constituents would inquire the reasons why it was imposed, and when they found it was from principles of justice, and to promote the public good, they would pay it without reluctance. From the nature of the article, he looked upon it as the means of a certain and sure revenue, and if it was not now used as such, it would be done on some future occasion with considerable advantage. In France, a duty was paid equal to two shillings and six-pence per bushel, which is more than the value of the article; in England, the duty was considerable, but cannot say how much. A duty of six cents per bushel here would yield a great revenue, and no man would feel the oppression. If it is alleged that it will affect the husbandman or grazier with large herds of cattle, are they not rich—at least rich enough to pay six cents on a bushel of salt? Certainly such a tax is too trifling to be much complained of, even if it was unequal; but I think it has been clearly demonstrated to be otherwise.

Mr. WHITE, after some doubts, had made up his mind against the article being taxed. We ought to pass no law that is unjust or oppressive in its nature, or which the people may consider as unjust or oppressive; a duty on salt would be considered in that light by a great number. Our constituents expect some ease and relief, particularly the poorer sort of people. It seems to be granted, from all that has been said, that it will affect them in a manner which no other tax can, though, it is said, they will not be affected beyond their proportion, as they pay nothing for the consumption of wine, spirits, &c. because they use none. One reason which influenced the committee to tax those articles, was to abolish the use of them altogether, or prevent the excesses they occasioned. Now will you urge in argument for

taxing the poor, that they already practise that temperance which you desire to bring universally about. All taxes, it is admitted, are odious, and some merely from opinion; but if they are odious from opinion, they ought to be carefully guarded against, especially if the Government depends upon opinion for support. The present constitution was adopted by a small majority in some States, and in the opinion of many is not so favorable to the rights of the citizens as could be desired; wisdom and prudence will, therefore, teach us not to exercise powers under it which opinion may judge oppressive. Considering the political state of Kentucky and the Western country, we ought to be careful how we give them umbrage; means at this moment are using to detach them from the Union, and place them in a different situation. This may be promoted in some degree by the slightest tax: for there are those who would gladly seize any advantage arising from a discontent among our citizens. It cannot be thought that this duty would be so productive as to warrant the risk we run in opposing the public opinion.

Mr. SCOTT.—I grant that the policy of this measure is mere matter of opinion, as its advocates have stated; it cannot be otherwise, because we have had no experience of it, and every gentleman will form that opinion from facts that have fallen under his knowledge. Now, from the facts known to me, I doubt its policy exceedingly; I would, therefore, be clear for passing it over for the present. Perhaps my local situation gives me an opportunity to know these facts better than most members on this floor, and this knowledge has prevailed with me to be of opinion, that the present measure would have very destructive consequences. I mean to give this opinion to the committee; they will make such use of it as they please; but, before I proceed further, I will just remark, that I do not think the reasons on the point of justice well founded. I think they have taken for granted facts that do not exist. It was supposed that the inhabitants of the back country did not use their proportion of the other articles which were taxed. Are we to believe that a bottle of Madeira, or of rum, never crossed the Alleghany mountains, or went more than fifty or one hundred miles from the sea-coast? Sir, on the banks of the Ohio, I must say, though I am sorry to say it, there exists as great a rage for every species of luxury, which the people can lay their hands on, as there does even in the city of New York; and how should it be otherwise? Have they not the example from yourselves? If a countryman comes among you for a time, is he not initiated and accustomed to your manners? Will he not too often carry home your fashions and your vices? Certainly he will. Then why should gentlemen suppose that these people do not contribute their proportion on other articles? I can sit at a door in a country village, five hundred miles from this place, and see

H. of R.]

Duties on Imports.

[APRIL 17, 1789.]

nine out of ten of its inhabitants dress in European clothes. I can there procure wines, both in quality and quantity, equal to those on the sea-coast. If the people do not consume as much there, it arises merely from their inability to buy and pay for it; but they consume in proportion to their property and wealth. Now, if the position, that people ought to pay taxes in proportion to their property, be true, and I believe it is, and the inhabitants of the Western country contribute equally their part on all which has been laid, it remains only to inquire how the duty proposed will operate. I need not repeat the arguments already used to show its inequality. The gentleman from Virginia (Mr. MADISON) has ceded the point. He has said, that if we were laying this particular tax, it would be an improper one, because of its inequality. Now, then, I think it does come before us upon its own bottom; and as it is an unequal one, so is it an improper one. What is unjust is impolitic. On the principles of justice and policy, then, the measure ought to be rejected. I hope the opposition, which is apprehended, may not take place against your Government, as the wisdom and patriotism of this body will never, I am satisfied, furnish their enemies with weapons of destruction.

Mr. FITZSIMONS felt hurt by some of the arguments he had heard; whilst the Congress of the United States continue to act upon principles of justice, they have little to apprehend from their enemies. He hoped never to see any other principle govern them; it was paying their constituents a bad compliment to say, that they would oppose measures founded on such a basis; for his part, he did not think so little of their good sense and discernment. If gentlemen had proved that the proposed measure was founded in injustice, they would have some pretext for exciting alarms, but he did not think they had done this; he thought the contrary position was better established. At first view, it must be discernible that this article is of such a nature as to insure the collection of the duty; it is too bulky for smuggling; the average quantity which a family would consume could not exceed five bushels annually, this, at six cents per bushel, is less than one-third of a dollar; and are gentlemen serious when they talk of this ~~tax~~ being so oppressive as to endanger the Government? He knew very well, that this ground had been trodden by almost every State Legislature on the continent, and address enough had been used to make some think it an unpopular measure, but he could never see a reason for this opinion. It had been urged that we had better defer the subject under discussion for the present, and take it up hereafter. One reason why he was in favor of high and general duties, in the first instance, was to avoid the imputation which had been laid against the administration of this Government by its opponents; he would not attempt to deceive the people as to its powers; if a tax on salt will be right some time hence, it is right now.

Mr. SMITH, of Maryland, said, they collected eight cents in his State, and it caused no complaint that he knew of.

The question on imposing six cents on salt was put and carried, as was a motion for a drawback on salted provisions and fish.

On manufactured tobacco,

Mr. SHERMAN moved six cents, as he thought the duty ought to amount to a prohibition. This was agreed to.

On snuff, ten cents per pound.

Mr. CARROLL moved to insert window and other glass. A manufacture of this article was begun in Maryland, and attended with considerable success; if the Legislature were to grant a small encouragement, it would be permanently established; the materials were to be found in the country in sufficient quantities to answer the most extensive demand.

A desultory conversation arose in the committee respecting the propriety of receiving the motion at this time, when it was agreed to add on all window and other glass, except black quart bottles, ten per cent. ad valorem.

Mr. CLYMER informed the House of the state of the paper mills in Pennsylvania; they were so numerous as to be able to supply a very extensive demand in that and the neighboring States; they annually produce about 70,000 reams of various kinds, which is sold as cheap as it can be imported. This manufacture certainly is an important one; and having grown up under legislative encouragement, it will be wise to continue it. Thereupon it was agreed to lay an impost of seven and a half per cent. ad valorem on blank books, writing, printing, and wrapping paper, and pasteboard; the same, without debate, was laid upon canes, walking-sticks, whips, clothing ready made, on gold, silver, and plated ware, and on jewellery and paste work; upon cabinet ware, buttons of metal, saddles, gloves of leather, all hats of beaver, fur, wool, or mixture of either, all millinery, castings of iron, or slit or rolled iron, all leather tanned or tawed, or manufactures thereof, except such as are otherwise rated.

On every coach, chariot, or other four wheel carriage, and on every chaise, solo, or other two wheel carriage, or parts thereof, fifteen per cent. ad valorem.

CHAPLAINS, &c.

The committee rose; and the Speaker having taken the chair, a letter was received from the Senate, communicating a report of a joint committee, agreed to by the Senate, respecting the appointment of Chaplains, and the mode of conducting conference; also an appointment of a committee to confer with a committee of the House on an eligible mode of conveying bills, papers, and messages. The House concurred in the report of the joint committee, and appointed a committee to confer on the subject proposed.—Adjourned.

APRIL 18, 1789.]

Duties on Imports.

[H. OF R.]

SATURDAY, April 18.

Mr. WHITE, from the Committee of Elections, reported that the committee had examined the certificates and other credentials of the members returned to serve in this House, and found them entitled to take their seats; which report was concurred with.

A petition of the mechanics and manufacturers of the city of New York, whose names are thereunto subscribed, was presented to the House and read, setting forth that, in the present deplorable state of trade and manufactures, they look with confidence to the operations of the new Government for a restoration of both, and that relief which they have so long and anxiously desired; that they have both subjoined a list of such articles as can be manufactured in the State of New York, and humbly pray the countenance and attention of the national Legislature thereto.

Ordered, That the said petition be referred to the Committee of the whole House on the state of the Union.

Mr. CLYMER reported, from the Committee of Elections, to whom it was referred to report a proper mode of investigating and deciding on the petition of David Ramsay, of South Carolina, suggesting that William Smith, returned a member of this House, as elected within that State, was, at the time of his being elected, ineligible; that the committee had agreed to a report thereupon, which he delivered at the Clerk's table, where the same was read, and ordered to lie on the table.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. PAGE in the chair.

On motion of Mr. GOODHUE, anchors at seven and a half per cent. ad valorem, was added.

On motion of Mr. SHERMAN, nutmegs, cinnamon, raisins, figs, currants, and almonds, were struck out.

Mr. AMES introduced wool cards, with observing that they were manufactured to the eastward as good and as cheap as the imported ones.

Mr. CLYMER mentioned, that in the State of Pennsylvania, the manufacture was carried to great perfection, and enough could be furnished to supply the demand. A duty of fifty cents per dozen was imposed on wool cards.

On wrought tin ware, seven and a half per centum ad valorem; on every quintal of fish, fifty cents; and on every barrel of pickled fish, seventy-five cents.

Mr. FITZSIMONS moved the following: "On all teas imported from China or India, in ships built in the United States, and belonging wholly to a citizen or citizens thereof, as follows: on bohea tea, per pound, six cents; on all souchong and other black teas, ten cents; on superior green teas, twenty cents; on all other teas, ten cents.

On all teas imported from any other country, or from China or India, in ships which are not the property of the United States, as follows: on bohea tea, per pound, ten cents; souchong, and other black teas, fifteen cents; on superior green teas, thirty cents; on all other green teas, eighteen cents per pound.

Mr. FITZSIMONS supported the motion, by observing that one effect of the late glorious revolution was, to deprive the merchants of America of most of the channels of commerce which they had before pursued. This circumstance obliged them to search for other sources to employ their vessels in. It had been discovered that a pretty lucrative trade could be carried on with the countries in the east; the merchants have gone largely into it, and it at present gives employment to some thousand tons of American shipping and seamen; our success has been so great, as to excite the jealousy of Europe, and nothing is left undone to cramp or prevent our commercial operations in that quarter. The Legislature of Pennsylvania, impressed with the importance of the subject, had granted it aid by discriminating in the manner he proposed to the committee; and with the like aid from the Government of the United States, the merchants may no longer fear the machinations of the opulent companies in Europe, who are unwilling to let us partake of a trade they so long have had a monopoly of. Already the trade to India has had a very happy effect in favor of our inhabitants, by reducing commodities brought from thence to one half of their former price, and yet a sufficient profit is left to enable those concerned to carry it on with advantage.

Mr. MADISON felt a reluctance in being obliged to state his reasons why he doubted the policy of the proposed measure. What, said he, is its object? It is not to add to the revenue, for it will in fact tend to diminish it, in that proportion which the importation from China lessens that from other parts; it is not to increase our commerce, for long voyages are unfriendly to it; it is not to increase the importation of necessary articles, for India goods are mostly articles of luxury; it is not to carry off our superfluities, for these articles are paid for principally, if not altogether, in solid coin. If the trade is beneficial at all to the United States, it must be in this single point of view, that the articles can be imported cheaper through that channel than any other; and, if so, that it is the interest of the people to be supplied as cheap as possible. There are no collateral good purposes to claim our attention in this case. It is not in the nature of things that we should derive any other advantage than the one I have mentioned, without it is that of raising our India commerce from its weak and infant state to strength and vigor; to enable it to continue supplies at a cheaper rate than they could otherwise be obtained.

Mr. GOODHUE replied to Mr. MADISON's observations, respecting the mode of paying for

H. OF R.]

Petition of Churchman and Ramsay.

[APRIL 20, 1789.]

India goods, by informing the committee that very considerable quantities of ginseng, naval stores, lumber, and provisions, were shipped; other articles were sent also, and disposed of at ports on this side of China, in order to procure the most suitable cargo; so that we do not pay principally for their commodities in solid coin, but send off superfluities to a considerable amount, much more than if we were to procure our teas and nankeens from any part of Europe.

Mr. MADISON had not made the objection merely because the specie was exported, but to show that it did not bring in an equivalent, as the goods were mostly of that kind which are termed luxuries.

Mr. BOUNDINOT declared himself a friend to the Indian commerce. He thought it encouraged the employment of shipping, and increased our seamen; he knew its advantages to agriculture. The gentleman from Virginia, (Mr. MADISON) supposed but little of our productions were sent in exchange for India goods; but our beef, pork, flour, and wheat, were shipped for this purpose, not to China, yet to ports where proper cargoes were taken in to answer the trade. Encouragement and protection were necessary to prevent the large companies in Europe from underselling our merchants, which they would readily do, at considerable loss, if they could, in consequence, put a stop to our trade. He hoped, therefore, the committee would not hesitate in adopting the motion.

The motion was adopted accordingly.

On coal per bushel — cents.

Mr. BLAND informed the committee, that there were mines opened in Virginia capable of supplying the whole of the United States, and, if some restraint was laid on the importation of foreign coal, those mines might be worked to advantage. He thought it needless to insist upon the advantages resulting from a colliery, as a supply for culinary and mechanical purposes, and as a nursery to train up seamen for a navy. He moved three cents a bushel.

Mr. HARTLEY was willing to admit a moderate duty, but thought three cents would be a great discouragement to those manufactures which necessarily consume large quantities of fuel. He moved one cent.

Mr. PARKER said, that a less sum than three cents would not answer the purpose intended. Coal came from England as ballast, and was sold so low, as almost to prevent the working of their mines in Virginia. He hoped, if the committee were disposed to encourage them, they would proportion the means to the end; a duty of one cent would be void; nothing under what was moved by his colleague (Mr. BLAND) could answer the purpose. He hoped, therefore, the committee would agree to three cents.

On the question, there appeared a majority in favor of three cents. After which the committee rose, and the House adjourned.

MONDAY, April 20.

ABRAHAM BALDWIN and JAMES JACKSON, from Georgia, appeared and took their seats.

Mr. TUCKER, from the committee to whom was referred the petition of John Churchman and David Ramsay, reported that the committee had, according to order, had the said petitions under their consideration, and agreed to a report thereupon; which he delivered in at the Clerk's table, where the same was twice read, and debated by clauses.

The first clause, in the words following, to wit: "That the committee have conferred with Mr. Churchman, and find that he has made many calculations which tend to establish his position, that there are two magnetic points which give direction to the needle; that upon this doctrine he has endeavored to ascertain from a given latitude, and a given variation, what must be the longitude of the place; and having applied his principles to many instances in Cook's voyages, has found the result to correspond with considerable accuracy with the real facts, as far as they could be determined by the reckoning of the ship: That the object to which Mr. Churchman's labors are directed is confessedly of very high importance, and his ideas on the subject appear to be ingenious: That, with a view of applying them to practice, he has contrived a map and a globe, whereby to show the angles which are made by the intersection of the real and the magnetic meridians in different parts of the earth: That he is also engaged in constructing tables for determining the longitude at sea upon magnetic principles: That the committee are of opinion, that such efforts deserve encouragement, and that a law should pass to secure to Mr. Churchman, for a term of years, the exclusive pecuniary emolument to be derived from the publication of these several inventions;" was again read, and, on the question put thereon, agreed to by the House.

The second clause, in the words following, to wit: "With respect to the voyage proposed by Mr. Churchman to Baffin's Bay, the committee are cautious of recommending, in the present deranged state of our finances, a precipitate adoption of a measure which would be attended with considerable expense; but they are of opinion, that at a future day, if Mr. Churchman's principles should be found to succeed in practice, it would be proper to give further encouragement to his ingenuity;" was again read, and, on a motion made, was ordered to lie on the table.

The third clause, in the words following, to wit: "On the subject of the petition of Doctor David Ramsay, your committee report it as their opinion, that a law should pass to secure to him the exclusive right of publishing and vending, for a term of years, the two works mentioned in the petition;" was read, and, on the question put thereupon, agreed to by the House.

On these clauses, the following debate took place:

Mr. MADISON—I wish that the committee had stated the expenses attending a voyage to Baffin's Bay, for the purpose of discovering the cause of the magnetic variation, as proposed by Mr. Churchman, that the House might be better able to judge of its propriety. Well aware

APRIL 20, 1789.]

Duties on Imports.

[H. OF R.]

as I am that public bodies are liable to be assailed by visionary projectors, I nevertheless wish to ascertain the probability of the magnetic theory. If there is any considerable probability that the projected voyage would be successful, or throw any valuable light on the discovery of longitude, it certainly comports with the honor and dignity of Government to give it their countenance and support. Gentlemen will recollect, that some of the most important discoveries, both in arts and sciences, have come forward under very unpromising and suspicious appearances.

I am also well aware that the deranged situation of our treasury would not warrant us in spending considerable sums in visionary pursuits; but if an inconsiderable sum will answer on this occasion, and there is a probability of improving the science of navigation, I see no reason against it. Gentlemen who have been on the committee understand the subject best, and they will please give the House their sentiments.

Mr. WHITE said, that the proposed voyage had nothing to do with the principle of magnetic variation; it was intended to ascertain the cause; if the principle was true, it could be applied to practice without knowing the cause which produced it; therefore the committee had reported in the manner before them.

Mr. BURKE understood from Mr. Churchman, that it would take a small vessel about four months, in the summer time, to be in the high northern latitudes, attending him in his researches into the cause of the magnetic variation. He thought Mr. Churchman's theory ingenious and deserving patronage; but the voyage to Baffin's Bay was rather premature.

Mr. PAGE wished the committee to state the expense, because he thought the Legislature ought to assist Mr. Churchman in the voyage, if it would not cost too great a sum. It is true that the theory can be carried into practice whether the cause is discovered or not; but as the theory depends upon the cause, a knowledge of this would demonstrate the truth of the other. Mr. Churchman's system consists in applying the magnetic variation to the discovery of longitude. He lays down two magnetic points, to which the needle is attracted, and a magnetic equator, defining the nature of the curves formed by the magnetic meridians, the periods of revolution of the magnetic points, their courses, latitudes and longitudes, their diurnal, monthly, and annual situation, for any time past, present, or to come, with rules to apply these principles and materials to use. Mr. Churchman establishes the truth of this theory from calculations, compared with the actual observations made by Captain Cook and others. Having examined some of the calculations, he was astonished at the surprising agreement he found—they generally agreed within a few miles, and only one case where they differed more than a degree. If the use of this discovery was as extensive as he imagined, and he had every reason

to believe it would be so, it was certainly a discovery that would do honor to the American name. He thought some advantage might be derived from the projected voyage; and if the expense did not exceed five or eight hundred dollars, it might be prosecuted. If Government did not lend their aid, he expected individuals would patronize it, and furnish the means by subscription. He expressed a willingness on his part to join in such a measure, if the application to the Legislature was unsuccessful.

Mr. HUNTINGTON delineated the system also, and approved of it; but thought the voyage would be unsuccessful, if for nothing else, for the want of proper instruments. The use of Mr. Churchman's theory depended in a great measure, upon obtaining the magnetic variation with accuracy; for which purpose Mr. Churchman contemplated some improvement on the compass; if he was successful in this, the discovery would no doubt answer the object in view.

Mr. SHERMAN did not think the voyage would be of any help to the gentleman, and therefore should agree to the report.

Mr. TUCKER expressed a doubt whether the Legislature has power, by the Constitution, to go further in rewarding the inventors of useful machines, or discoveries in sciences, than merely to secure to them for a time the right of making, publishing and vending them: in the case of a doubt, he thought it best to err on the safe side.

The House now decided upon the propositions of the committee, as before stated, and ordered bills to be brought in, securing the right of publishing, &c. of their respective works, to John Churchman and David Ramsay.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. PAGE in the Chair.

The following clause of the bill was agreed to, viz: "On all other articles, five per cent. on their value at the time and place of importation, except tin in pigs, tin plates, lead, old pewter, brass, iron or brass wire, copper in plates, wool, dyeing woods and dyeing drugs, (other than indigo,) raw hides, beaver, and all other furs, and deer skins."

Mr. FITZSIMONS proposed a drawback of six cents per gallon on all rum distilled in the United States, exported without the limits of the same.

Mr. MADISON asked if the quantity of rum so exported was very considerable? He believed it was not; and he would not, for the sake of encouraging that branch of trade, open a door by which frauds on the revenue could be committed equal to the whole duty collected.

Mr. FITZSIMONS could not say what quantity of rum was exported in that way; but he feared, unless a drawback was allowed, it would be a great injury to the manufacture. At the time the duty of six cents on molasses was laid, he thought it was understood, the committee would

allow a drawback on the rum exported. There seems to be an apprehension that the system of drawbacks will operate to the disadvantage of the revenue; but he believed a mode could be devised to prevent frauds, in this case, fully as effectually as on the importation. If this was not done, it would be time enough for gentlemen to oppose it; they would have this opportunity, because a bill, regulating the manner of collection, he presumed, would pass at the same time with the one for levying the duties. If drawbacks were not allowed, it would be a very considerable restraint on commerce, particularly on the India trade, which he believed was likely to be considerably extended. He was sorry the gentlemen from Massachusetts were not there in their places,* to give information to the committee respecting the quantity exported from that State; from Pennsylvania the quantity was but small.

Mr. LAWRENCE could give no exact information relative to the quantity of New York rum exported, but, from what he understood, supposed it to be about one thousand hogsheads annually; it was entitled to a drawback, and there was no reason to believe this had been the occasion of frauds on the revenue: he should agree to the measure.

Mr. MADISON was sorry the gentlemen from Massachusetts were absent, because they could give authentic information with respect to the quantity. He had in his hands a statement of the exports from Massachusetts, which he believed to be pretty accurate, from January 1st, to December 31st, 1787. From this it appeared, that there were exported during that period, to Nova-Scotia, eighty-nine hogsheads; to Europe, one hundred and thirty-four hogsheads, and eight hundred and ninety-seven to Africa and the East Indies. Now he submitted to the committee, how far it was proper to adopt a measure for such a trifling consideration, which would become a most dangerous cover to the clandestine trade that must necessarily follow. Rum will, no doubt, be exported in the day and brought back in the night, for the sake of drawing back the duty, as has been done already in similar cases.

Mr. FITZSIMONS contended for drawbacks generally, but on this article it was particular injustice to omit it. The manufacture of rum was of considerable importance in the Eastern States, but it would not be able to stand a successful competition with West India rum in foreign countries, while loaded with a duty of six cents per gallon. The tax on molasses was that sum, and he looked upon it to be the same thing as if it had been paid on the rum at distillation; one gallon of the former yielding but one of the latter.

Mr. MADISON thought there were very few cases in which drawbacks ought to be allowed,

* The delegates from that State were gone to meet the Vice-President, who was expected in town this day.

perhaps none but what related to the East India trade. The small proportion of distilled rum exported did not justify so great a risk; but of the small proportion which went abroad, the greatest part went to the coast of Africa. He feared this trade was inconsistent with the good of mankind, and ought to be reprobated instead of encouraged. If gentlemen were to consider the great advantages derived to the distillers from the present Government, they would perhaps think them sufficient for their encouragement without allowing drawbacks. The annual exportation from Massachusetts to the several ports of the United States is five thousand three hundred and twenty-seven hogsheads. This quantity was formerly subjected to an equal duty with the West India rum. If, under these circumstances, country rum could command this great sale, what will it do now when the communication is free, and many parts of the United States laid open to this trade, that was shut before? This consideration alone ought to do away all complaints for want of a drawback.

Mr. BLAND said the committee had spent several days in encouraging manufactures, by selecting articles for revenue, and were now extending their views to the encouragement of commerce. He thought there was some impropriety in combining the clause proposed in this part of the bill, and even doubted if it was in order; therefore would vote against it.

The question was put on the motion for a drawback on country rum, and lost.

Mr. FITZSIMONS had another clause upon the same subject, only on more general principles; he hoped gentlemen would consider well before they doomed it to share the fate of the former. It was to this purpose: that all the duties paid, or secured to be paid, upon goods imported, shall be returned or discharged upon such of the said goods, as shall within ——— months be exported to any country without the limits of the United States, except so much as shall be necessary to defray the expense that may have accrued by the entry and the safe keeping thereof. The subjects of duties and drawbacks are so connected by their nature, that he did not see how they were to be separated. Gentlemen did not imagine that what had been done tended to favor commerce; it certainly did not. Every impost which is paid is a disadvantage to the person concerned in trade, and nothing but necessity could induce a submission to it. The interest of the landholder is undoubtedly blended with the commercial interest; if the latter receive an injury, the former will have to sustain his proportion of it: If drawbacks are not allowed, the operations of trade will be considerably shackled; merchants will be obliged, in the first instance, to send their cargoes to the place of consumption, and lose the advantage of a circuitous freight, which alone is a profit of no small magnitude.

Mr. HARTLEY expressed his sorrow for the last decision of the committee; he wished the question had not been put in the absence of the

APRIL 21, 1789.]

Duties on Imports.

[H. OF R.]

gentlemen from Massachusetts, who were on a business in some degree of a public nature. The present motion was only just brought in; he submitted, therefore, to the committee, if it were not best to pass it over for the present, in order to give time for consideration.

Mr. LAWRENCE was for expediting business, but thought, nevertheless, that deciding questions at this time, when several members were absent, did not tend to that point, because the question would be agitated again in the House.

Mr. BOUDINOT endeavored to evince the propriety of drawbacks by facts within his knowledge. A large quantity of Madeira wine was imported for the express purpose of exporting it again; now, not to allow a drawback of the duty, in this and similar cases, would encumber trade exceedingly.

On motion of Mr. CLYMER, the committee rose, and the Speaker resumed the chair.

MANNER OF TAKING OATHS.

The bill regulating the manner of taking the oath prescribed by the constitution, was committed to the Committee of the whole; after proceeding some time in considering it, the committee rose and reported progress:

And the House adjourned.

TUESDAY, April 21.

Mr. HARTLEY asked and obtained leave of absence.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. PAGE in the chair.

The motion respecting drawbacks, proposed yesterday by Mr. FITZSIMONS, was adopted without debate.

A motion being under consideration for laying a duty of six cents per ton on all vessels built in the United States, and owned by a citizen or citizens thereof, and all vessels foreign built, but now owned by such citizens;

Mr. MADISON observed, that some small provision of this kind was necessary for the support of light-houses, hospitals for disabled seamen, and other establishments incident to commerce. The motion was agreed to.

The next motion proposed was—"on all vessels belonging wholly to subjects of Powers in alliance with the United States, or partly to the subjects of those Powers, and partly to the citizens of the United States, — cents per ton.

Mr. GOODHUE laid it down as a maxim, that the tonnage duty ought to bear a certain ratio to the freight; for which reason he had made some calculations to determine what proportion any given sum would bear to the average of the freights both to Europe and the West Indies. A vessel of two hundred tons carried three or four hundred barrels, the freight of which to the West Indies might be estimated at five shillings, to Europe at one dollar. Now calculate this at the average, and five per cent.

on the freight would be about seventy-two cents; whether the duty should be rated at four, five, or six per cent. on the freight, he submitted to the committee; but as this motion was confined to those nations in alliance with us, he would move but sixty cents.

Mr. BOUDINOT, on the principle last mentioned, proposed thirty cents.

Mr. GOODHUE.—There would be no occasion to lay additional duties on ships owned by foreigners, if our own vessels were not subjected to charges in foreign ports over and above what the natives pay. It is the operation of this unequal burthen that renders it necessary for us to discriminate. It becomes us, therefore, to ascertain what these extraordinary impositions are, in order to regulate our conduct. I am very well satisfied, in my own mind, that thirty cents will be very inadequate to the object. Those who are acquainted with the disadvantages under which our commerce labors, will readily see that sixty cents are not fully equal to the extra duties imposed on American vessels in foreign ports, and, consequently, not sufficient to establish that preference which we ought to give our own navigation.

Mr. LAWRENCE.—The subject before us requires the most particular consideration, for several important reasons. I shall, therefore, without apology, proceed to state some observations. In a former debate it was remarked, that the duty on tonnage must eventually fall upon the productions of our country. If this is a just observation, we ought to consider whether the prices that those productions bear at foreign markets are such as to bear this extra imposition. If we have not shipping enough of our own, (and that point, I imagine, will be conceded me,) we shall be under the necessity of employing foreign vessels in the transportation of such articles as we have to dispose of; the owners, knowing our necessity, will take advantage of the duty to raise their freight; and thus the duty will inevitably fall upon ourselves.

It is well known to this committee, that in the different ports of the United States we have a variety of articles peculiarly calculated for exportation, and which we are obliged to export; such as rice, lumber, tobacco, potash, flax seed, and a great many others; besides, it is also well known, that we have not that quantity of American shipping which is required in the transportation of these articles; it is necessary, therefore, that we either employ foreigners, or suffer our commodities to perish on our hands. If this be true, you will have, as I said before, to consider whether the articles we thus export are capable of bearing this additional burthen upon the prices they bring in foreign markets: I think they are not. Gentlemen from the southern States mentioned the other day, that the planters had begun to turn their attention to other productions than those they were accustomed to the cultivation of, because their staple commodities could no longer be ex-

H. OF R.]

Duties on Imports.

[APRIL 21, 1789.]

ported to advantage. If difficulties of this kind exist now, without the operation of a tonnage act, what will they be when so considerable a burthen is laid upon them? But what advantage will accrue from the regulation, when the duty we impose upon foreigners must revert back, in its operation, upon us? Besides, as the duty must be paid out of the price of the articles exported, it will, in effect, be the same as a tax upon such articles, which is expressly forbidden by the Constitution. If foreigners enhance their freight in proportion to the duty, and our commodities are unable to bear the additional expense, gentlemen will have reason to deprecate the consequences; it must unavoidably check domestic industry, the sole foundation of national welfare and importance. For what stimulus will the farmer have to raise more produce than is necessary for his own support? Will he toil in cultivating the earth, in gathering in its increase, to have the fruits of his labor perish in his granaries? Once destroy this spring of industry, and your country totters to ruin. Will the proposed high duty have such effect? I fear it may; and therefore shall be for a much lower sum. Thirty cents will be a sufficient duty.

Mr. HARTLEY, thinking sixty cents too high, proposed one-third of a dollar, or thirty-three and one-third cents.

Mr. GOODHUE was fully of opinion that the duty ought not to be laid so high as to prevent foreign shipping from coming amongst us, while they were useful or necessary to our navigation, nor yet so high as to injure the sale of our own productions in foreign markets. But can it be said, that a duty of less than five per cent. on the tonnage of foreign vessels can be attended with such ill consequences? He apprehended it could not, and was very well satisfied that sixty cents was as little as could be mentioned, to give encouragement to our own vessels.

Mr. FITZSIMONS admitted the importance of the subject as stated by the gentleman from New York, (Mr. LAWRENCE,) and thought it the duty of the committee to consider well its effects before they came to a decision. There could be no doubt entertained of the policy of meeting the commercial regulations of foreign Powers with commercial regulations of our own. In these regulations, the policy is for each to obtain for its own vessels an advantage over those belonging to foreign nations. We certainly ought not to be less attentive to our interest than others are to theirs; every advantage, therefore, which can be justly given to our own shipping is due them. Happy effects may no doubt be derived from the present policy; but, on this head, I am not altogether so sanguine as some gentlemen seem to be with the encouragement proposed. The merchant may be induced to vest more considerable sums in property of this kind than heretofore, and at some future period we may become at least the carriers of our own commerce. In this case, too, we have every reason to believe the freight

will be less than it is at the present time in foreign vessels.

A calculation of what may be the proper duty, made from the freight of a ship, is but an indefinite way of coming at the object. He understood the gentleman from Massachusetts (Mr. GOODHUE) to have calculated the freight of a voyage, at five per cent. on the value of the vessel; but surely the gentleman was mistaken. He believed no ship paid a clear profit of five per cent. to the owner, at this time; such was the embarrassed state of American commerce.

The tonnage employed in the transportation of the productions of America, he estimated at about 600,000 tons; of this two-thirds are owned by citizens, the other one-third by foreigners. From this view of our navigation, he very much doubted if any restrictions which could be laid on foreign vessels would produce immediately, or at a very short period, the additional tonnage necessary to supply the whole American trade. We are limited, said he, in this particular, by not possessing capital sufficient to do it. If a merchant vests his capital in shipping, he will want it in the operations in which it is now employed; yet, nevertheless, he was firmly of opinion, that good policy required a discrimination between our own and foreign vessels, in order to give the former encouragement. America must, from her natural situation, participate considerably in the commerce of the world, and ought to have the means of protecting it; but while this is gradually growing up into strength, it would be impolitic to deprive ourselves of the convenience which foreign shipping affords. Then we will not adopt such a duty as must deter foreigners from coming amongst us until we are in better circumstances. If we lay a duty at two-thirds of a dollar per ton on the vessels of nations in alliance, we cannot propose to lay less than a dollar on those with whom we have no treaties. A ship of two hundred tons will then have to pay two hundred dollars; a very considerable expense, perhaps much more than our trade can bear. If we are to discriminate between nations in treaty and those not in treaty, I should prefer the lowest sum proposed on the first, and the highest on the other.

There was an observation made by the gentleman from New York, (Mr. LAWRENCE,) which, though it does not apply strictly to the subject under consideration, it may not be amiss to remark upon. It is said, that the duty on tonnage must inevitably fall upon the produce of the country, and be a reduction of so much of the planter's profits; this assertion is probably founded on a presumption that foreigners can draw their supplies conveniently from other parts of the world. But these articles are not conveniently to be had from any other quarter; consequently, if they are necessary to the people of those nations which we supply, the duty will fall upon them. Lumber and flour are necessary to the West Indies; but the truth is, they cannot be obtained any where else than

APRIL 21, 1789.]

Duties on Imports.

[H. OF R.]

from America. As our shipping are restrained from carrying these articles to the place of consumption, it may certainly be thought good policy to draw a revenue from those vessels that carry them for us. Rice is not raised in any other country sufficient to supply the European market; it is so with tobacco; of consequence, the consumer must pay what we demand. But it would not be prudent to lay our restraints too heavy, lest we deprive ourselves of the use of foreign shipping; thirty cents is probably enough to answer every good purpose.

Mr. TUCKER.—I am willing to give every proper encouragement to ship-building in the United States, but I cannot consent that it should bear heavy on certain States, while part of their burthen is received by others as a bounty. I mean to move, therefore, for a small duty, although I am sensible that it will be exclusively borne by a few of the southern members of the Union. Some States, it is well known, have more tonnage than is sufficient to carry all their small productions to a market; of course, a duty on foreign ships will not affect them. Other States, which have considerable quantities of more bulky articles to export, require a greater number of ships, having few or none of their own, must consequently be subjected to the whole of the additional duty; for whether the vessels be foreign or American, the freight will be the same. Much of the produce of South Carolina is carried off by foreigners, and in American shipping a considerable quantity is exported. The duty will be paid equally, in either case, by the shipper, for the freight of American vessels will be raised to an equality with the other; and of all this money so paid, there comes into the treasury that part only collected from foreigners; the rest, as I said before, goes as bounty to benefit the owners of American ships. I trust it cannot be said by the advocates for high tonnage, that the States most likely to be affected by such a measure do not bear a proportion to the other taxes, because it is flagrant that they bear more than their proportion. Where, then, let me ask, is the justice of extending it?

So far as I can make a calculation in my own mind, I conclude that the duty on tonnage proposed by the gentleman from Massachusetts (Mr. GOODHUE) would amount, on what is employed at the port of Charleston alone, to forty or fifty thousand dollars annually—one-third of the whole tonnage is foreign, the other two-thirds American. The first is all that could come into your treasury; the latter goes, need I repeat it, into the pockets of individuals, as an extra reward for serving us. I think a bounty of thirty thousand dollars to our eastern brethren would be no inconsiderable one from the port of Charleston alone; but I fear that it is more than it is able to afford. But besides drawing this to themselves, you are to consider they are exempt from contributing any part of the duty on foreign tonnage.

I wish gentlemen also to consider, that there

remains another addition to be made to the duty on tonnage—I mean that of nations with whom the United States have formed no treaty. If we lay sixty cents now, and contemplate a still higher sum on the other, it will certainly be insupportable to those States which have no shipping; I think the lowest sum that has been mentioned is as much as can be required by any State: I am sure it is more than some are able to bear. Being convinced in my own judgment of this, I will move twenty cents, and think it fully sufficient to effect what gentlemen have in contemplation; it will be a liberal encouragement to an interest which I wish success to; and though it is at the expense of a few States, I shall be satisfied with the measure, under a hope that it may eventually promote the general welfare.

Mr. BENSON wished a previous question, to ascertain whether there should be a discrimination in the manner proposed or not? For his part, he did not discover, from any thing that had been said, the principle of policy or interest which was to guide us on this occasion. He supposed it was intended that Dutch and French ships should be preferred to English. Now, if this policy was for the interest of America, he was content; but he saw nothing that pointed out the necessity. Are we bound by treaty or compact to make this discrimination? If we are, it is certainly proper to make it. But he did not know of any treaty which directed our conduct in this affair. He knew our treaties mentioned that they should be entitled to the same advantages as the most favored nations, but this does not, even by construction, mean that we should prefer them to every other. If it is for the advantage of our country to give this preference, although we are not bound to do it, he would be content it should be so; but he wished gentlemen would decide this point before a question was taken on filling up the blank.

Mr. BURKE thought sixty cents a very extravagant impost upon the tonnage of foreign shipping. Did gentlemen see the extent of the mischief, or were they unacquainted with the present state of the staple productions of Virginia, Carolina, and Georgia, which, if carried to market, are so fallen in price as not to reward the planter's toil; whilst great part of our tobacco and rice, for want of vessels to carry them, are now decaying in our warehouses? Will not restrictions therefore tend to hurt those productions? If they will, he trusted gentlemen would be moderate in laying them; he was satisfied that the citizens of the State he came from considered a high tonnage duty as a great evil; he saw it in the same light also, and was therefore opposed to it.

Mr. SHERMAN would trouble the committee no further than just to remark, that the policy of laying a high tonnage on foreign vessels, whether in treaty or not in treaty, was at best but a doubtful point. The regulation is certainly intended as an encouragement to our own shipping; but if this is not to be the consequence

of the measure, it must be an improper one. If a large duty is laid on foreigners coming into our ports, they will be induced to counteract us, by increasing the restraints which our vessels already labor under in theirs. But sixty cents will surely be too high in the present case, if it is proposed to lay more on foreigners not in treaty. Not seeing, therefore, any advantage resulting from high duties on tonnage, he should vote against the sixty cents.

Mr. MADISON.—Some gentlemen have seemed to call in question the policy of discriminating between nations in commercial alliance with the United States, and those with whom no treaties exist. For my own part, I am well satisfied that there are good and substantial reasons for making it. In the first place, it may not be unworthy of consideration, that the public sentiments of America will be favorable to such discrimination. I am sure, with respect to that part from which I come, it will not be a pleasing ingredient in your laws, if they find foreigners of every nation put on a footing with those in alliance with us. There is another reason, which, perhaps, is more applicable to some parts of the Union than to others; one of the few nations with which America has formed commercial connexions has relaxed considerably in that rigid policy it before pursued—not so far, to be sure, as America could wish, with respect to opening her ports to our trade; but she has permitted our ready built ships a sale, and entitles them to the same advantage, when owned by her own citizens, as if they had been built in France, subjecting the sale to a duty of five per cent. The British market receives none; the disabilities of our ships to trade with their colonies continue, even if they are purchased by the subjects of Great Britain; of consequence, they cannot be sold without a considerable loss. Nay, so cautious are they to prevent the advantages we naturally possess, that they will not suffer a British ship to be repaired in America, beyond a certain proportion of her value; they even will not permit our vessels to be repaired in their ports.

Another consideration has some weight with me in deciding the question of discrimination. The policy of our ally, from the views of the minister employed, has frequently been adverse to the interest of this country. The person who has had the charge of our affairs at that Court has long been soliciting a relaxation in our favor, and although it cannot be declared that he has succeeded, yet there is reason to believe he has made some impressions, which our conduct ought to avoid effacing; they are such as merit national attention, and might justify a discrimination at this time, although it may be proper to hold ourselves at liberty to pursue that policy which a change may make necessary. There are also other considerations which ought to be taken into view. From artificial or adventitious causes, the commerce between America and Great Britain exceeds what may be considered its natural boundary. I find from an examina-

tion of the accounts of tonnage for the three large States of Massachusetts, Virginia, and South Carolina, that the tonnage of nations in alliance with us holds no proportion with that of Great Britain, or of the United States. This is a proof that a very small direct commerce takes place between those countries and this; that there is less of direct intercourse than there would naturally be if those extraneous and adventitious causes did not prevent it; such as the long possession of our trade, their commercial regulations calculated to retain it, their similarity of language and manners, their conformity of laws and other circumstances—all these concurring have made their commerce with us more extensive than their natural situation would require it to be. I would wish, therefore, to give such political advantages to those nations, as might enable them to gain their proportion of our direct trade from the nation who has acquired more than is naturally her due. From this view of the subject, I am led to believe it would be good policy to make the proposed discrimination between them. Is it not also of some importance, that we should enable nations in treaty with us to draw some advantage from our alliance, and thereby impress those Powers that have hitherto neglected to treat with us, with the idea that advantages are to be gained by a reciprocity of friendship? If we give every thing equally to those who have or have not formed treaties, surely we do not furnish to them any motive for courting our connexion.

It has been objected, that the price of our produce at foreign markets would not bear this additional burthen, and that the freight must be paid by the planters. It will be unnecessary, after what was said by the gentleman from Pennsylvania, (Mr. FITZSIMONS,) to take up the time of the committee in observing, that foreigners must receive our tobacco, rice, &c., in American shipping, if they cannot be otherwise got. There may be a discrimination made in other respects besides in tonnage, so that a very high impost on this article need not be insisted upon. But will any gentleman say, British vessels ought to enjoy in American ports greater advantages than are enjoyed by Americans in British ports? Yet, were the duties laid equal in both cases, the British merchant would have a very great superiority. In the first place, some of the most valuable ports which she possesses, and most conducive to our interest, are absolutely closed, while every port in the United States is open to her without restriction or limitation. Again, even in those which it is permitted America to enter her vessels, she must bring nothing but the produce of her own soil, whilst the British ship makes circuitous voyages, and brings with her the produce of every quarter of the globe. These are material advantages; and take the whole of these observations together, I think they furnish substantial reasons for making the proposed discrimination.

Mr. LAWRENCE.—The question in this case,

APRIL 21, 1789.]

Duties on Imports.

[H. OF R.]

I take it, will be the policy of giving a preference to one nation above another. I would ask the gentleman over the way (Mr. MADISON,) if we have experienced advantages from the Powers with whom we have treaties, sufficient to entitle them to this preference? If we have, and are under obligations to them for such advantages, I shall be the last man to say any thing to prevent a grateful discharge of those obligations; if we are under no such, we are left to act from what we may consider our best interest; for nations, as well as individuals, are guided by the principle of interest. If, then, it will operate against the interest of the United States, it will be bad policy to give this preference; if it is congenial to and consistent with that interest, then it becomes our duty to give it. The gentleman last up has stated several considerations why a preference should be given to the vessels of foreigners in treaty. He tells you, the public sentiment is in favor of the measure. I would ask him how is the public sentiment, in this case, to be collected? Is it to be collected from the conversation of individuals, or from the acts of public bodies? If from the conversation of individuals, I am not so well informed as he is, because I never heard it mentioned; if from the acts of public bodies, we may be on a footing, because they are to be come at with a little inquiry and application. Now, if my memory serves me right, I believe no discrimination has been made but by one State. I know the State I have the honor to represent on this floor has made none; we consider all foreigners upon an equal footing, and that it is not our interest to give a preference to any, and therefore we do not do it. The gentleman says, there has been a relaxation in the policy of one Power in alliance with us, and in France we may now sell ships built in America under certain regulations; but, probably, this privilege may be no benefit to us. I believe we have not sold more than two vessels in that country since the alteration has been made, and these, perhaps, without advantage; if I am mistaken, let me be set right, and let the gentleman make it appear that we can draw a benefit from this relaxation sufficient to justify the present measure. He mentioned also an expectation of some further alterations in our favor. I admit we may have such expectation, but probably it may not be realized. Some time ago, we had some privilege respecting the importation of oil into France; but an alteration has taken place on this subject, and our privilege, together with the benefit, is gone. The gentleman mentioned, that the commerce of Britain with this country was too great in proportion to that of other nations; but this is a point not for the Government to settle. I maintain, that the merchants of America are well able to understand and pursue their own interests, and the advantages which they obtain tend to the wealth and prosperity of the Union. If they find it their interest or convenience to form connexions with the subjects of one nation in preference to

another, why should the Government interfere to dissolve it? They should be left to themselves, like the industrious bee, to gather from the choicest flower the greatest abundance of commercial sweets.

I believe there is a propriety in discriminating between our own citizens and foreigners; but as to the latter, there is no good reason for establishing a preference among them. It is not contended that we are bound by treaty to do any such thing; if we are not bound by treaty, then we are left at liberty to pursue our particular interest. And here I would ask gentlemen, if it can be our interest, not having vessels enough of our own, to discourage the competition among foreigners for our carrying trade? If we give a preference, we destroy the competition. The Dutch, I am informed, navigate the cheapest of any nation; they have a treaty with the United States; of course, they will carry our produce in the first instance; but as they will not furnish enough, we must look further, to France. This nation does not accommodate us with enough either. We then go to nations not in treaty, and subject ourselves to this additional burthen, and must give them what they exact. We are told that American vessels have not the same advantage in British ports that British ships have in America. This may be true; but it must be considered, that our vessels are on an equal footing with their own in carrying the produce of our country, while articles of the same nature, imported from other parts of the world, pay an additional duty. It may be well on this occasion to observe, that the nation against which this regulation is directed, may be disposed to meet you with a similar regulation, and destroy that part of our carrying trade which remains to us. At present we can export potash, lumber, iron, and other articles to England, and we pay no higher duty than British vessels, but a small alien duty to which all nations are subjected. Upon the whole, it is good policy, I believe, to let commerce take its own course, and not to attempt discrimination, which may eventually prove more injurious to us than we at present conceive. We ought to contemplate our own interest as a nation, and pursue what appears to be the best calculated to promote that end, as we are under no obligations to the contrary, from either the principles or practice of those Powers with whom subsist commercial treaties.

Mr. MADISON.—I am a friend to free commerce, and, at the same time, a friend to such regulations as are calculated to promote our own interest, and this on national principles. The great principle of interest is a leading one with me, and yet my combination of ideas on this head leads me to a very different conclusion from that made by the gentleman from New York. (Mr. LAWRENCE.) I wish we were under less necessity than I find we are to shackle our commerce with duties, restrictions, and preferences; but there are cases in which it is impossible to avoid following the example of other na-

H. OF R.]

Duties on Imports.

[APRIL 21, 1789.]

tions in the great diversity of our trade. Some reasons for this were mentioned on a former occasion; they have been frequently illustrated in the progress of this business, and the decision of the committee have proved them to be necessary.

I beg leave to remark, in answer to a train of ideas which the gentleman last up has brought into view, that although interest will, in general, operate effectually to produce political good, yet there are causes in which certain factitious circumstances may divert it from its natural channel, or throw or retain it in an artificial one. Have we not been exercised on this topic for a long time past? Or why has it been necessary to give encouragement to particular species of industry, but to turn the stream in favor of an interest that would not otherwise succeed? But laying aside the illustration of these causes, so well known to all nations, where cities, companies, or opulent individuals engross the business from others, by having had an uninterrupted possession of it, or by the extent of their capitals being able to destroy a competition, let us proceed to examine what ought to be our conduct on this principle, upon the present occasion. Suppose two commercial cities, one possessed of enormous capitals and long habits of business, whilst the other is possessed of superior natural advantages, but without that course of business and chain of connexions which the other has; is it possible, in the nature of things, that the latter city should carry on a successful competition with the former? Thus it is with nations; and when we consider the vast quantities of our produce sent to the different parts of Europe, and the great importations from the same places; that almost all of this commerce is transacted through the medium of British ships and British merchants, I cannot help conceiving that, from the force of habit and other conspiring causes, that nation is in possession of a much greater proportion of our trade than she is naturally entitled to. Trade, then, being restrained to an artificial channel, is not so advantageous to America as a direct intercourse would be; it becomes therefore the duty of those to whose care the public interest and welfare are committed, to turn the tide to a more favorable direction.

In the trade of South Carolina is employed annually about 56,977 tons of shipping. The proportion of French and Dutch is about 2,100 tons, while that of Great Britain is about 19,000. In Massachusetts the quantity is about 85,551 tons; it is stated, that there are belonging to the State, 76,857, the remainder is foreign, and mostly British. In Virginia we have 56,272 tons; 26,903 British; and only 2,664 of the French and Dutch. I cannot, from this view of the subject, be persuaded to believe that every part of our trade flows in those channels which would be most natural and profitable to us, or those which reason would dictate to us, if we were unincumbered of old habits and other accidental circumstances that hurry us along.

It has been asked by the gentleman from New York, (Mr. LAWRENCE,) what evidence we had that the public sentiments of America were in favor of discrimination? Perhaps it would be improper on this occasion to adduce any other proof of the fact than from the transactions of public bodies; and here, I think, is abundant proof to be found. The State of Virginia, if I am not mistaken, lays a double duty on tonnage; French and Dutch vessels pay half a dollar per ton, while the vessels of Great Britain are subjected to one dollar. There are other distinctions in our revenue laws manifesting the same principle; some of them establish a preference to French wines and brandy. In Maryland, a similar policy has prevailed. I believe the difference there is about one-third in favor of our allies, (if I err the gentlemen from that State can set me right;) in Pennsylvania, there is a discrimination of about a fourth. I do not certainly recollect, but I believe the like policy exists in other States; but I have not had an opportunity of searching their laws on this point, but what I have enumerated are facts affording substantial proof that the public sentiment does favor the discrimination.

Mr. BALDWIN observed, that the question immediately before the committee was of less importance than the one which had been argued by the gentleman from Virginia (Mr. MADISON) and the gentleman from New York (Mr. LAWRENCE.) He was glad to have this question discussed, and thought the gentleman had very properly called in the public sentiment as an argument in favor of his motion for discrimination; but the gentleman over the way wants evidence of what the public sentiment is. I think, said he, we have a strong proof of what the public sentiment is in the very existence of the House. This sentiment he believed to be the cause of the revolution under which we are about to act. The commercial restrictions Great Britain placed upon our commerce in pursuing her selfish policy, gave rise to an unavailing clamor, and excited the feeble attempt which several of the State Legislatures made to counteract the detestable regulations of a commercial enemy; but these proving altogether ineffectual to ward off the effects of the blow, or revenge their cause, the convention at Annapolis was formed for the express purpose of counteracting them on general principles. This convention found the completion of the business impossible to be effected in their hands; it terminated, as is well known, in calling the convention who framed the present constitution, which has perfected a happy revolution in politics and commerce.

The general expectation of the country is, that there shall be a discrimination; that those nations who have not yet explained the terms on which an intercourse shall be carried on, or who have by establishing regulations bearing hard upon such intercourse, may know our ability and disposition to withhold, or bestow advantages, according as we find a principle of reciprocity prevail. Thinking a discrimination necessary,

APRIL 21, 1789.]

Duties on Imports.

[H. OF R.]

and knowing that the voice of the people calls for it, we shall not answer the end for which we came here, by neglecting or refusing to make it.

Mr. FRIZZIMONS was well aware from the beginning that the debate would turn in the manner it had done. The question which was now brought forward was well worthy of consideration and discussion, but he would add no more to the latter than barely to state to the committee such facts as would tend to point out the difference of the policy of the two principal nations in their regulations as they affected the commerce of America, leaving it to the judgment of the committee to draw such conclusions from them as are proper. He believed it true, as stated by the gentleman from Virginia, that of all the foreign shipping employed in our trade, three-fourths at least belong to the British; nor did he think it difficult to account for this being the case. The citizens of America, previous to the revolution, were possessed of shipping nearly enough to carry on their whole commerce; but during the war, they were not only deprived of the shipping they before possessed, but the means of acquiring others also. When the era of peace commenced, they availed themselves of the opportunity of establishing among us merchants, agents, and factors of that nation. It is by these men, and the capitals of Britain, that we are furnished with vessels for the transportation of our productions; it is by this mean that almost the whole of our trade is carried on in some States. These observations, added to what had been offered before, would show clearly the circumstances by which that nation had got such a large proportion of our trade.

Let us proceed now to ascertain what is the difference between the regulations of France and England relative to the commerce of this country. Into the ports of Great Britain an American vessel can bring the produce of the United States, but nothing else. He believed our ships paid no more duties on such articles than if imported in British bottoms, except what was for the support of lights; but this in some cases falls pretty heavy, but it is no more than all other nations have to pay. In the ports of France, an American vessel is admitted nearly on an equal footing with the vessels of their own subjects. There was a distinction made by the gentleman from Virginia (Mr. MADISON) which he conceived had not been fully attended to. The ships of this country sold in France are entitled to all the privileges of French built ships, in her colonial trade as well as any other. Our ships may be sold in England also, but they cannot be employed in her colonial trade, consequently the price must be lessened by the restriction of their use. In the West India islands the American vessels are not permitted to enter, but ships belonging to the subjects of Great Britain may carry any of our produce to those places; there is no prohibition in this respect. In the French West India islands, American shipping are admitted indiscriminately with their own, but then the articles which are

allowed to be carried there are few and of little value; they are lumber, live stock, and fish; the latter subject to a heavy duty. To some States it is highly beneficial that their productions should be carried off to the West Indies, although in British bottoms; but then it ought to be remembered, that the articles calculated for the consumption of the islands are of such a nature that they cannot be obtained elsewhere; so that it may be fairly inferred, the admission of them is not intended as a favor to America.

The gentleman from Connecticut (Mr. SHERMAN) apprehended, if we laid restrictions on the foreign trade, we might be met with equal restrictions on the part of foreigners; but there is no danger of that. Every thing which Great Britain takes from us, is taken because she cannot get it any where else; or if it is to be had at any other market, it is not at a price so cheap as ours. Rice for that market cannot be got in sufficient quantities; tobacco the same. Lumber for her islands she has attempted unsuccessfully to procure from another quarter. Being thus circumstanced, we do not run any risk of losing that commerce by any regulation we may enter into. But, for our own sakes, we ought not to carry them so far as to deprive ourselves of the convenience they afford, whilst we are unsupplied with shipping of our own. But certainly we can draw a revenue from their consumption by a tonnage duty, as it must unavoidably be paid by the consumer and not the planter.

The question of policy has been well explained, and therefore nothing more need be added; but submitting the decision to the sense of the committee, he would rest the facts and conclusions here.

Mr. GOODHUE withdrew his motion for sixty cents. Mr. HARTLEY's motion for thirty-three and one-third cents was put and lost, but the question on thirty cents was put and carried.

The next question, "on all vessels belonging wholly or in part to the subjects of other Powers, at the rate of ——— cents per ton."

Mr. LAWRENCE moved to fill up the blank with the same sum as they had just agreed to.

Mr. MADISON supposed the gentleman, by this motion, intended to equalize the restrictions about to be laid on foreign nations, as he was opposed to a discrimination; if so, he acted consistently with his principles: But, said he, I am actuated by a different sense of interest; and therefore shall be in favor of a larger sum than that proposed. The more the subject has been examined, the greater necessity there appears for discrimination. If it is expedient for America to have vessels employed in commerce at all, it will be proper that she have enough to answer all the purposes intended; to form a school for seamen, to lay the foundation of a navy, and to be able to support itself against the interference of foreigners. I do not think there is much weight in what has been observed relative to the duty we are about to lay in favor of American vessels, being a burthen on the community, and particularly oppressive to some

H. OF R.]

Duties on Imports.

[APRIL 21, 1789.]

parts; but if there were, it may be a burthen of that kind which will ultimately save us from one that is greater.

I consider that an acquisition of maritime strength is essential to this country; if ever we are so unfortunate as to be engaged in war, what but this can defend our towns and cities upon the sea-coast? Or what but this can enable us to repel an invading enemy? Those parts which are said to bear an undue proportion of the burthen of the additional duty on foreign shipping, are those which will be the most exposed to the operations of a depredatory war, and require the greatest exertions of the Union in their defence; if, therefore, some little sacrifice is made by them to obtain this important object, they will be peculiarly rewarded for it in the hour of danger. Granting a preference to our own navigation will insensibly bring it forward to that perfection so essential to American safety; and though it may produce some little inequality at first, it will soon ascertain its level, and become uniform throughout the Union, a higher duty will become necessary on these principles, as well as on those of discrimination. The preference we give to foreign nations in alliance over those not in treaty, will tend to increase the trade of our allies; but it will also enable our own shipping to carry on lower terms than that nation who is in possession of such an unnatural proportion of commerce.

Mr. FITZSIMONS moved to fill the blank with sixty cents, and was seconded by Mr. GOODHUE.

Mr. TUCKER expressed himself in favor of some discrimination; he thought it ought to be made on the principles mentioned by the gentleman from Virginia, (Mr. MADISON;) but he feared he should not be able to vote with gentlemen on the present question, because he conceived the rate proposed was too high. If the committee would agree to fix the duty on this article at thirty cents, and re-consider their last vote, and reduce that to twenty, he should concur with them; but, as he thought thirty cents enough for the highest, he was inclined to vote for that sum, only he feared it would seem to infer that he was not in favor of discrimination if he did so; but to avoid if possible the difficulty to which he was exposed, he would move thirty-five cents, with an intention hereafter to reduce the first article to twenty.

Mr. MADISON begged leave to express an idea which he thought would reconcile gentlemen to a more considerable duty than seemed to be contemplated. It was admitted, on all hands, that America did not furnish shipping sufficient for the transportation of her own produce, and the apparent quantity would decrease from what it was now represented to be, if gentlemen considered that the American vessels, mentioned in the custom-house reports, may clear three, four, five, or six times a year, and consequently multiply the gross amount without its being

substantially true. Another circumstance that decreases this apparent quantity is, that foreigners have, in some instances, in order to obtain the privileges of our ships, masked their property under the American name. This reduction of our shipping serves only to show the indispensable necessity of applying means to raise it up to what it ought to be. But, in doing this, we ought to be careful in avoiding any sudden or violent effect upon our commerce by the rise of freight. Let, then, the operation of the present discrimination continue for such a length of time as it is likely will procure us a sufficient quantity of tonnage of our own, and then let the duty be increased to a greater degree. This may be done by a small addition to the clause, saying that the duty shall be a certain sum, but that, after another day, it shall be increased to a larger sum. Thus will both the objects of gentlemen be effected. Ship-building will be encouraged, and the freight will not be raised. He made a motion similar to what he had expressed.

Mr. TUCKER felt himself sorry to be obliged to make local observations on the question before the committee, but the duty he owed his constituents, as well as his duty to the whole community, called upon him to repeat what he had said on former occasions respecting the burthen which a heavy tonnage duty would be upon the State of South Carolina. He hoped gentlemen would forbear adding to their oppression; if a high duty must be laid, let it be determinate, that the people may know what they are to bear; do not introduce an idea that their burthens are in future to be increased. He hoped gentlemen who wished for national encouragement to their ship-building would be moderate, as they plainly saw that it must be done at the expense of their neighbors.

Mr. FITZSIMONS remarked, that the sum now proposed was not so high as to prevent foreigners from continuing our trade. As a proof of this he instanced Virginia. The tonnage duty was one dollar in that State, and yet he believed they found no difficulty in getting British ships to carry their produce; besides, he did not think sixty cents exceeded much, if any thing, the average of the tonnage duties laid by the State Governments. Even in the State which the gentleman complains is so likely to suffer, they have a tonnage duty, perhaps not quite so high as the one proposed. If a high tonnage duty will raise the freight, even then the conclusion which that gentleman drew does not follow; for the price of freight will equalize itself. A vessel will readily remove to where the best freight is to be got, and by their numbers soon reduce the price, or raise it elsewhere to an equality. They would readily go from Massachusetts to Carolina, and all the expense would be the sending of a vessel from one port to another; besides, foreign tonnage is more or less employed by every part of the Union.

The question on the motion proposed by Mr. MADISON, respecting the increase of the duty at

APRIL 24, 1789.]

Duties on Imports.

[H. OF R.]

a certain time, was put, and the House divided equally; it lying with the chairman to decide, he did it in the negative, remarking that he did not see any necessity for using the words, because the subject was always in the power of the Legislature.

Mr. BOUDINOT moved fifty cents; which motion, after sixty cents had been negatived, was adopted by the committee.

On motion of Mr. FITZSIMONS, seconded by Mr. GOODHUE, it was provided that no vessel built within the United States, and belonging to a citizen or citizens thereof, whilst employed in the coasting trade, or in the fisheries, shall pay tonnage more than once in any one year. Nor shall any ship or vessel, built within the United States, pay tonnage on her first voyage.

The committee rose, and reported the foregoing resolutions as agreed to. The report was ordered to lie on the table, and the House adjourned.

WEDNESDAY, April 22.

PETER SYLVESTER, from New York, appeared and took his seat.

The House resolved itself into a Committee of the whole on the bill to regulate the taking the oath or affirmation prescribed by the sixth article of the constitution, Mr. PAGE in the chair. After going through the bill, and making some amendments therein, the committee rose and reported the bill with the amendments; which report was ordered to lie on the table.

THURSDAY, April 23.

JOHN HATHORN, from New York, appeared and took his seat.

Mr. RICHARD BLAND LEE reported, from the committee appointed to confer with a committee of the Senate, in reporting a proper mode of communicating papers, bills, and messages, between the two Houses, that the committee had, according to order, met and conferred with a committee of the Senate thereupon, and had agreed to a report; which he delivered in at the Clerk's table, where the same was read, and ordered to lie on the table.

Ordered, That the report from the Committee of the whole House on the bill to regulate the taking the oath or affirmation prescribed by the sixth article of the constitution, be put off until to-morrow.

FRIDAY, April 24.

Mr. BOUDINOT reported, from the committee appointed to attend with a committee from the Senate, to receive the President of the United States, at the place of his embarkation from New Jersey, that the committee did, according to order, together with a committee from the Senate, attend at Elizabethtown, in New Jersey, on the 23d instant, at which place the two committees met the President, and thence em-

barked for this city, where they arrived about three o'clock in the afternoon of the same day, and conducted him to the house appointed for his residence.

The House proceeded to consider the report from the committee appointed to confer with a committee of the Senate in reporting a proper mode of communicating papers, bills, and messages between the two Houses, which lay on the table, and the said report being twice read, was, on a motion made, ordered to be recommitted to the same committee.

On motion,

Resolved, That so much of the standing rules and orders of this House as prescribes the enacted style of bills, be rescinded.

The Speaker laid before the House a letter from the Vice President of the United States, enclosing a resolution of the Senate, appointing a committee to consider and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the constitution; also to consider of the time, place, and manner in which, and the person by whom, the oath prescribed by the constitution, shall be administered to the President, and to confer thereon with such committee as this House should appoint for that purpose; whereupon,

Ordered, That a committee, to consist of five members, be appointed for the purpose expressed in the resolution of the Senate.

The members elected were Messrs. BENSON, AMES, MADISON, CARROLL, and SHERMAN.

DUTIES ON IMPORTS.

The House then proceeded to consider the resolutions reported by the Committee of the whole on the state of the Union.

Mr. BOUDINOT complained that the articles were generally taxed too high, not too high for the article to bear, but too high for the due collection of the revenue. Every thing we tax should be considered as it relates to the interest of the importer, as well as other circumstances; now, if it is discovered that the duties are so great as to make it a beneficial trade to the merchant to run his goods, he will do so, and injure the revenue.

When this subject was before the Committee of the whole, he expressed a desire for gentlemen to get information from such sources as were likely to be the purest; in conformity with this desire, he had endeavored to avail himself of the few leisure moments which his avocations allowed him, in order to ascertain what would be the amount of the duties, the risk of smuggling, and what degree of temptation merchants will be under to engage in this practice. The duty on spirits is so high as to afford a very strong temptation; and when we consider the extensiveness of our sea-coasts, we shall find it impossible to place our guards so thick as to prevent the importer from falling into the prac-

H. OF R.]

Duties on Imports.

[APRIL 24, 1789.]

tice. We ought not, therefore, to make the inducement so strong as to endanger the loss of the revenue. But suppose, on experience, we discover the fatal tendency of the measure, can we lower it with convenience? Certainly we cannot, as it regards the fair trader.

The article of Madeira wine will bear a heavy duty, as well as spirits; but, in laying a duty on it, we ought to consider its situation. We pay for it in the produce of our country is one consideration; but when it arrives, it is not immediately productive; it is necessary to keep it some years before it is fit for sale. Now, on a cargo of two hundred pipes of Madeira, the duties will amount to three thousand or two thousand six hundred pounds; this is a very large sum for a merchant to pay from his capital; no doubt the Government will give some credit, but we cannot give a credit equal to the merchant's necessity. The temptation will be increased from the want of means to discharge the duty; and the advantage of clearing three thousand pounds on a cargo will make it the most advantageous trade a person can engage in. Will not so large a reward as this awaken all his powers to defraud you, and to evade the checks which you are obliged to establish? But if many officers are necessary to watch the faithful collection of the impost, they will defeat the object of revenue as much as a loss by smuggling; they will consume the whole in compensating their services; besides, such establishments are odious to the people, and will render the Government itself unpopular.

The duty on 2,500,000 gallons of West India rum, which is less than the quantity actually consumed in America, calculated at one shilling only, will amount to 125,000 pounds; the duty on 5,000 pipes of Madeira wine will be at least £67,500, besides the twelve cents on all other wines. What an extravagant sum—above half a million of dollars for these two articles alone! Can this be in proportion to our wants? Surely it exceeds them. But it is to be feared, after all, that these high duties will diminish the revenue rather than increase it. Such is the natural consequence resulting from an extension of the subject beyond what it is capable of bearing. He knew a fact in point: when molasses was subjected to a duty of six pence a gallon in this State, a person who was considerably in the trade did not pay at the rate of a farthing per gallon for seven or eight years; but when the duty was reduced to a penny, he paid £1,200 annually. This anecdote will serve to show the committee the propriety of not exceeding the bound of moderation, if revenue is their object. In order to begin to make the reduction, he moved to lower distilled spirits of Jamaica proof from fifteen to twelve cents per gallon.

Mr. MADISON was sensible that high duties had a tendency to promote smuggling, and in case those kinds of fraud were successfully practised the revenue must be diminished; yet he believed the sum proposed on spirits was not

so high as to produce those effects to any considerable degree. If any article is capable of paying a heavy duty, it is this; if the duty on any article is capable of being collected with certainty, it is this; if a duty on any article is consonant with the sentiment of the people of America, it is this; why then should not the article be made as tributary as possible to the wants of Government? But, besides these favorable circumstances, I think the combination of the merchants will come in aid of the law; the people will also lend their aid. These circumstances would do much toward insuring the due collection of the revenue.

Mr. JACKSON seconded Mr. BOUDINOT's motion for reducing the duties, because he was well convinced they were too high even to be well collected, unless we establish custom-houses every ten or twelve miles, like watch-towers, along the sea-coasts. When trade is so unproductive, the Legislature ought to be careful how they make it more worth a man's while to live by committing frauds upon the revenue than by practising honest commerce.

There is another consideration which particularly regarded the Georgia trade. That country, abounding with lumber of the most luxurious growth, could only exchange it for rum; and a very considerable commerce grew out of this intercourse favorable to Georgia. This would be affected by the imposition of heavy duties; but commercial considerations, we shall be told, form only a secondary object in this business. There is another proposition in which he acquiesced; it would be more convenient, and more to the honor of the House, to make their first essay with low duties; because, if they persisted in laying them high, they would be compelled to an inglorious retreat, and the Government would be insulted. In the State he represented, it was next to impossible to collect the revenue, the country was so intersected with navigable creeks and rivers, if the people were disposed to evade the payment of it; and there was no more certain way to produce this disposition than by making it their interest to defraud you.

Mr. WADSWORTH conceived the duty much too high, and joined the gentlemen of the opposition in believing it never can be collected; the quantity of rum imported was full 4,000,000 gallons annually; can it be thought that the whole of this duty will be paid, or even a considerable part of it? He thought it would not. The British, when in possession of this country, only imposed a duty of three pence sterling on molasses; but, with all their custom-house officers, their navy, their cutters, and energetic executive, they were unable to obtain it. When it was reduced to one penny, they got something. How, then, can the Federal Government expect, without these aids to collect a higher duty, when even the specie in the country is insufficient to pay the whole amount of it? If we attempt a thing that is impracticable, we shall expose our weakness, without effecting any

APRIL 24, 1789.]

Duties on Imports.

[H. OF R.]

one good purpose whatsoever; by moderating the duties we shall obtain revenue, and give that encouragement to manufactures which is intended; but by persisting in keeping them so high, we shall obtain nothing, and the law will be destructive of itself.

Mr. FRYSIMONS.—If it is the opinion of the House that the duties agreed to in the committee cannot be collected with any tolerable certainty, they will agree to a reduction. One gentleman tells you it is impossible to prevent smuggling, another that there is not money enough in the country to pay the duties, and another that their amount exceeds the wants of the United States. Have gentlemen made a calculation of the amount of those duties? If they have, do they find it exceeds even the probable wants of the United States? If it does this, it will be improper to make a demand of so much; but I believe, if the calculation was made, and the whole of the duties carried into the total, we shall still fall something short of what is absolutely necessary to discharge our national obligations and support the Government; but if there is not money enough in the Union to pay these things, the Government must go without it; we can have no alternative. But whether any or all of those observations are true, is but matter of opinion; we have not the means of ascertaining them with precision; for my own part, I entertain sentiments very different from those delivered by the gentlemen in opposition. One of them stated a fact relative to the collection of the duty on molasses when at six pence and one penny per gallon; no doubt it is true, but the inference does not hold good in the case before us; the gentleman only proposes a reduction from fifteen to twelve cents. Whether we can prevent smuggling or not, will be best ascertained when the bill for collecting the duties shall be brought forward. Such a bill is now in the hands of the committee, and I trust that it will be adequate to the object; if it guards sufficiently against smuggling, or defrauding the revenue of twelve cents, it will require but very little more circumspection to secure fifteen. The gentleman from New Jersey states the embarrassments to which the importer will be subjected by having to make such large payments for duties out of his capital; he supports this by supposing a merchant obliged to pay three thousand pounds on two hundred pipes of Madeira; but there are very few such cargoes imported into the United States. But suppose there were, cannot the bill I alluded to before regulate the time and manner of payments, so as to give an opportunity to the owner to sell enough of the article to discharge the duty before it is demanded? This is the practice in England, where the duties frequently exceed double the value of the article, and by a mean of this kind he can avoid employing his capital in the payment of the duty. Gentlemen have remarked on the impossibility there is of preventing an illicit trade being carried on. I know it will

be more difficult to provide against this in some States than in others; but gentlemen will recollect, that generally those places where goods can be landed with privacy are places of but little consumption; it will, therefore, be necessary to remove them to others, and I trust this removal can be so guarded against as to frustrate the attempt. To defraud the revenue in this view, a person who has got his goods on shore in Georgia will be little higher his object than if they were in the West Indies. The duty on a hogshead of rum will be about sixteen or eighteen dollars; the fraudulent trader will calculate the cost to remove a hogshead landed at these unfrequented places to the place of consumption, with the common charge for risk, and extra one for illicit trade, and will find perhaps that the profit to himself is small and precarious. Now, whether we fix the duty at twelve or fifteen cents, it will be equally easy, or nearly so, to secure our object—revenue.

The gentleman from Jersey has recommended to the committee to gain information. I have endeavored to inform myself of the public opinion, and of the opinion of merchants, and can say, as the result of my inquiries, that if it was possible to obtain a revenue of double the amount from ardent spirits, it would give general satisfaction in Pennsylvania. I believe in some States the proposed duties would be paid under almost any system of collection with great certainty; where it cannot be so obtained, the law must aid the officer sufficiently to attain the object.

The gentleman from Georgia says it will injure the trade of his State, because they export their lumber and take rum in payment; I think they have very little advantage by such an exchange. It is said, that we shall, on experience of the predicted disadvantages, be compelled to lower the duties. I believe it would be injurious to the Government to have revenue laws that could not be executed; but that, I trust, is not likely to be the case with the present; because the mode of collection can, I think, without great expense, be so regulated as to secure a faithful performance of what it directs. If the duties should lessen the consumption and importation of distilled spirit, a great good is effected; it will tend to improve the morals of the people; if it does not produce that consequence it will afford the more revenue. It is a proper object of a sumptuary regulation, not only as it is a luxury, but inasmuch as it is a luxury of the most mischievous kind. As I think the collection of twelve or fifteen cents equally secure, and as the best source of obtaining revenue is by impost, I shall be for the highest sum; knowing that, if there is not money enough in the country to pay the necessary sum for the support of Government, a recourse to excise or direct taxes cannot produce more.

Mr. BOUDINOT was not ashamed to confess that he wanted the advantages of commercial knowledge on a question where the principles of trade were interwoven; but he opposed high

H. OF R.]

Duties on Imports.

[APRIL 24, 1789.]

duties on a conviction in his own mind that they could not be collected. He repeated some few of his former arguments to show why he held this opinion; but it was not the particular article of rum that he was opposed to, it was the high scale on which the duties were laid generally, and that only from an idea that greater revenue might be obtained from less duties.

Mr. LAWRENCE.—The gentleman from Pennsylvania (Mr. FITZSIMONS) has observed, that a high duty on rum will tend to improve the morality of our citizens, at the same time he expects to raise a considerable revenue from the importation; if the consumption is lessened, the object of revenue is defeated, and the deficiency rendered uncertain. The true object I take to be this, that we lay our duties in such a manner as to produce the greatest quantity of revenue from each article which it is capable of yielding, considering its nature and circumstances. Here, then, it is worthy of consideration, whether we have laid the impost on rum so as to obtain the payment of the duty on the whole quantity imported, or whether it will not occasion so much to be smuggled as will lessen the amount of the revenue below what a lighter duty would bring into the treasury. If the fact is, that smuggling is increased by high duties, the revenue runs great risk of loss. Now, several gentlemen contemplate that this will be the case here, and they imagine this because the duty is much higher than the mean rate of all the duties laid throughout the Union. It is higher than has been laid by any particular State; besides it does not correspond in a ratio with the other articles. As the quantity already imported has paid but a small duty, it may be afforded at a moderate price, but what hereafter is imported, if it pays a much higher duty, cannot come in competition with the former; so that the importer must either keep the latter upon hand, or introduce it without the payment of any duty at all. The fact which was mentioned by the gentleman from Jersey (Mr. BOURNOUT) has made a deep impression on my mind; from which I plainly foresee that, if the duty is laid too high, it will be an irresistible inducement to smuggling, and smuggling will take place; if smuggling does take place, it will probably tend more to corrupt the morals of the people than can be amended by restricting the use of rum. After they once have a habit of smuggling, it is but chance whether lowering the duties would root out the evil; for when once the business is established, and connexions formed, it will be easy to carry it on for a less profit than it was before it had been got into train. It is said, that the sense of the people, and the combination of the merchants, will assist the Government in the collection of the duty, and prevent smuggling. I have a high opinion of the merchants of America, and believe them to be a virtuous body of men; but I fear, like every other body of men, they may be induced to evade your laws if their interest

is concerned in the event; and their interest will be concerned, if the profit from smuggling is likely to be considerable, after defraying the charge of risk. But there can be no absolute reliance on circumstances of this nature; our reliance ought to be on the law; and if the law does not take effectual means to secure the collection, we are not to expect our citizens will do it. I think, then, before we get through the impost bill, we ought to see what security the one for collection will afford; if it is not sufficient to obtain the object in view, no doubt can remain but that the duties ought to be lowered. It is at present the sense of well-informed men, both in Congress and out of doors, that the duties are too high to be collected, and being of that opinion I shall vote for the reduction. On this principle I hope the amendment will take place.

Mr. TUCKER wished the duties to be lowered, and proposed to the committee to strike off seven cents from the fifteen; by varying his motion in this manner, he expected the sense of the House could be taken on his proposition first, notwithstanding the rule that "the question shall be put on the highest sum first." He joined in the opinion that high duties were productive of smuggling; that notwithstanding the powers and vigilance of custom-house officers, and the whole Executive, contraband trade is carried on in every nation where the duties are so high; the facility with which it could be done in America ought to show a prudent Legislature the degree of probability; unless this can be guarded against, what will the law avail? It can avail nothing. Besides, the higher the duty is laid, the more you expose the officer to the temptation of being corrupted; when that is done, the revenue will be very unproductive.

Mr. BLAND would second the gentleman last up, but thought it was not in order to have the question taken first on the lowest sum.

Mr. MADISON.—The question is not whether the whole scale of duties agreed to in the committee shall be reduced, but whether the particular duty on the article of spirit. I will not differ with the gentleman altogether, and say that none of the subsequent articles are too high to be collected with certainty, but I am not convinced by any thing yet said that fifteen cents per gallon is too much to be laid upon spirit of Jamaica proof. The gentleman from New York says, the example of the States has proved that high duties are not expedient, and that this article does not correspond with the rate they have fixed to it. The State Governments, no doubt, collected what duty they thought best, but it does not follow that the General Government cannot collect more than the State Governments have done. The people adopted the new Constitution, I believe, under a universal expectation that we should collect higher duties; we must do this; I believe, if we mean to avoid direct taxation, which was always a mean of revenue in the particular States. But with respect to what the States have judg-

APRIL 25, 1789.]

Duties on Imports.

[H. OF R.]

ed expedient to be derived from this source, let us turn to authentic acts; they will neither deceive nor mislead us. We find, in Massachusetts, one-sixth of a dollar laid some years ago; if it did not succeed, was it not owing to the inauspicious policy of the neighboring States? In Pennsylvania the consumer of rum pays to Government ten pence a gallon.

The same gentleman has said, that our laws ought to be such as to execute themselves, and not depend upon the support of the people; now I cannot discern how the law can execute itself without the support of the people, therefore I think it right to place the dependence where I have imagined it will be well supported. It was also remarked, that smuggling depraves the morals of the people. If we are to consider the effect of our laws in this point of view, (laying aside the corruption which the general use of rum occasions,) let us consider what will be the effect of a deficiency in the revenue, by the proposed reduction of the impost; and no gentleman has suggested a substitute for this defalcation, nor pretends that we shall raise more than we want. What, then, will be the consequence? Lessening the impost will prevent the Government from performing its engagements, and doing justice to its creditors. Have we not seen the turpitude of such conduct, and the consequent contamination of morals? Examine both sides, and say which of those evils is most to be deprecated. But if people are disposed to enter into a system of smuggling, they will find a better interest in running fine goods with only five or ten per cent. than in such a bulky and inconvenient article as rum at thirty per cent. A worthy gentleman from Connecticut (Mr. WADSWORTH) suspects there is not money enough in the country to pay the duties. If there is any dearth of money, let us take measures to prevent the importation of rum, and then we may get money for our produce, and soon supply the vacancy. I cannot believe the virtue of our citizens is so weakly fortified as not to resist the impression which a seeming interest may make; their conduct under the British Government in the article of smuggling, is no proof to me of a natural disposition to evade a just tax; they conceived themselves at that time oppressed by a nation in whose councils they had no share, and the resistance on this principle was justified to their consciences; but as the case is altered, so that each has an equal voice in every regulation, I do not despair of a great revolution in sentiment in this particular, when it is known and understood that the man who wounds the honor of his country by a baseness in defrauding the revenue, only exposes his neighbors to further and greater impositions. Under this impression, I trust the great body of the people will unite and drive out smuggling from our country.

Mr. FITZSIMONS observed to the House, that the decision of the present question, in his mind, involved some very important alterations in the present measure; the consequences re-

sulting from which ought to be well considered. In order, therefore, to gain time for this purpose, he would move an adjournment; whereupon the House adjourned.

SATURDAY, April 25.

The House, according to the order of the day, received the report from the Committee of the whole House, to the bill to regulate the taking the oath or affirmation prescribed by the sixth article of the constitution; and the amendments to the said bill being read and amended at the Clerk's table, were agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

Mr. BENSON, from the committee appointed to consider of the time, place, and manner in which, and of the person by whom the oath prescribed by the constitution shall be administered to the President of the United States, and to confer with a committee of the Senate for the purpose, reported as followeth:

That the President hath been pleased to signify to them, that any time or place which both Houses may think proper to appoint, and any manner which shall appear most eligible to them, will be acceptable to him: that requisite preparations cannot probably be made before Thursday next: that the President be on that day formally received by both Houses in the Senate Chamber: that the Representatives' Chamber being capable of receiving the greater number of persons, that therefore the President do take the oath in that place, and in the presence of both Houses: that after the formal reception of the President in the Senate Chamber, he be attended by both Houses to the Representatives' Chamber, and that the oath be administered by the Chancellor of this State.

The committee further report it as their opinion, that it will be proper that a committee of both Houses be appointed to take order for further conducting the ceremonial.

The said report was twice read; and, on the question put thereupon, agreed to by the House.

Ordered, That Messrs. BENSON, AMES, and CARROLL be a committee on the part of this House, pursuant to the said report.

DUTIES ON IMPORTS.

The House then resumed the consideration of the resolutions respecting the impost, as reported by the Committee of the whole on the state of the Union.

The motion made yesterday by Mr. BOUDINOT for reducing the impost on spirits from fifteen to twelve cents per gallon, was put and lost.

Mr. SMITH, of Maryland, stated, that there was propriety in discriminating on the article of spirits between nations in and not in alliance with us; for which reason he proposed that a duty of six cents per gallon be laid on all spirit of Jamaica proof imported from the dominions of nations in alliance.

Mr. LEE observed, that a preference was given to our allies in the tonnage; if more was necessary to be done, he would rather do it in

H. OF R.]

Duties on Imports.

[APRIL 25, 1789.]

that way, than by making such alterations in the system as would give a preference to the articles individually which America takes from them.

MR. LAWRENCE.—French brandy, I take it, is as destructive to the morals and health of the people as West India rum; therefore the argument drawn from that consideration does not apply in favor of reducing the duty on the former. If we pay for French brandy in the produce of our country, we do the same for West India rum; therefore that argument is not more favorable to the one than to the other. I believe, in short, every argument that applies in one, will apply in both instances; whether, therefore, it respects the morals of the people, commerce, or revenue, there is no reason for the reduction, unless it be on the principle that the whole of the duties are too high, and it is proposed to lower them generally. But one observation further may be necessary, to show the effect a partial reduction may have upon the revenue; if brandy can be imported at a less price than rum, the consumption will increase, and in proportion as the consumption of brandy increases, that of West India rum will diminish; if the importation of West India rum is lessened, the revenue will lose all the difference between the duty on that article and French brandy.

MR. FITZSIMONS thought, when the discrimination was agreed to in the article of tonnage, as much was done as the House could be disposed at this time to do; it was certainly enough to manifest the good disposition of the United States towards those nations it was intended to befriend; perhaps it was doing as much as commercial principles would warrant. At any rate, the measure would lessen the revenue without giving any material preference, and therefore was improper.

MR. PAGE thought that brandy was a more wholesome spirit than any other; but if it was not wholesome, it was less noxious, and on that account merited more favor. But the real principle on which the motion was founded, was certainly a discrimination favorable to our allies, and on this account he would support it.

MR. FITZSIMONS reminded the House, that the French had already, by the vote of the committee, a very considerable advantage in the article of wine. The French wines were frequently of the most superior quality, and yet were subjected only to an equal duty with the lowest from other countries.

MR. MADISON.—Discriminations, however small, may have a good political effect; even a difference of one cent on brandy may have a tendency to advance the interest of the United States. I differ essentially from the gentleman from New York (MR. LAWRENCE) on the subject of preference. I think we have a great deal in our power by this policy, if we make a right use of it. I wish to teach those nations who have declined to enter into commercial treaties with us, that we have the power to extend or withhold advantages as

their conduct shall deserve. If the situation of our country and our public wants admitted the experiment, I should interdict the importation of rum altogether, until we should be allowed to carry to the West India islands, in our own vessels, the produce of America, which necessity compels them to take. In any case, where we have made a treaty to open all our ports to the vessels of a nation, without stipulating for reciprocal advantages, I agree we must abide by it; but where we have entered into no stipulations, I would give no encouragement unless equal advantages were obtained on our side. We have now the power to avail ourselves of our natural superiority, and I am for beginning with some manifestation of that ability, that foreign nations may or might be taught to pay us that respect which they have neglected on account of our former imbecility. This language and these sentiments are the language and sentiments of our constituents. The great political revolution now brought about, by the organization of the new Government, has its foundation in these sentiments. Sensible of the selfish policy which actuated a nation long disposed to do all she could to discourage our commercial operations, the States singly attempted to counteract her nefarious schemes; but, finding their separate exertions ineffectual, with a united voice they called for a new arrangement, constituted to concentrate, conduct, and point their powers, so as to obtain that reciprocity which justice demands. The arrangement has taken place, and though gentlemen may contend that we are not at this moment prepared to use it in the latitude I could wish, yet let them concur in doing what shall indicate, that, on a proper occasion, we dare exert ourselves in defeating any measure which commercial policy shall offer hostile to the welfare of America. The mere showing such a disposition, at this time, may have a good effect. I believe such a discrimination as is proposed will be a manifestation of that disposition; but perhaps a less discrimination may effect the business as well as a large one; if so, I would rather brandy should be reduced two or three cents below the West India rum, and then the revenue would be but little diminished, and the consumption could not be supposed to increase considerably.

MR. SHERMAN.—The probable amount of the duties we have agreed to, will not, in my opinion, exceed two millions of dollars. This sum is insufficient to answer the public exigencies, therefore I should be sorry to reduce much upon any article. In this case it is not intended, perhaps, to make a great reduction; it is only to show a preference to our allies; but if the discrimination on tonnage is not sufficient for that purpose, I would rather make a discrimination on any other article than ardent spirits, the importation of which does not deserve encouragement from any part of the world.

MR. LAWRENCE.—It seems to be admitted that the supply from the impost will not effectually answer the demands of the United States,

APRIL 25, 1789.]

Duties on Imports.

[H. OF R.]

and that the article of rum is to be principally relied upon for raising revenue. These considerations induced the House not to agree with the motion of the gentleman from New Jersey (Mr. BOURNOR) for reducing distilled spirits. Gentlemen that urged those considerations are now advocating the reduction of the duty of other spirits of equal proof. The natural consequence of this measure must be to encourage the importation of the latter, and limit the importation of the other. Will not this diminish the revenue? And do gentlemen come forward with a substitute which will provide for the deficiency? I say, if the consumption of Jamaica spirit is lessened, that of brandy will be increased, and we lessen our revenue in order to pay tribute to our allies; to manifest our regard at a great expense to ourselves; but, nevertheless, we are told it is proper to do it, and the public sentiment of our country is in favor of the measure, though it is contrary to the principle of interest which governs all nations. When it is a proper time to make these discriminations, I shall not be against it; but the United States are not in a condition at present to engage in a commercial warfare. Such regulations as these will be met with other regulations by the nation against which they are aimed, and they will probably operate with more severity on us than ours can upon them. I feel myself impressed with as lively a sense of gratitude to the French nation for their important services during the late revolution, as any man; yet I have an equal affection for the interests of my country; and before I accede to a measure like the present, I ask this question—whether we are in such a condition as to make it necessary for the United States to pay tribute to our allies? For what are these sacrifices to be made? Is our commerce on such a favorable footing with them as to require this manifestation of regard on our parts? We have the privilege of entering with our vessels into some particular ports in the West Indies, but the advantage is but small, and we have done something on tonnage to show our sense of the favor; surely gentlemen will admit it is sufficient, and not call upon us for more, if they compare the actual benefit derived from our commerce with Britain, to the real advantages afforded by the French trade. We can export any of our produce to England in our own bottoms, and it pays no higher duty than if it was carried in British vessels; we export our produce to the British West India islands, but it is in their vessels; it is the policy of that nation to improve her maritime importance by navigation laws, giving a preference to her own shipping. Can we export our produce to France, or the French West Indies, on such good terms? Then the preference, in a commercial view, is on the other side. The exportation of iron, lumber, and potash to Britain is very considerable; but we are told these articles cannot be got elsewhere, yet they are frequently imported into England from other countries, but subjected to a much higher duty

than ours. If Britain was to oblige our articles to pay similar duties, it would soon counterbalance every good we promise ourselves from discrimination. True it is, we have a right to regulate our commerce, and declare the terms upon which foreigners shall trade among us, but we ought to consider the expediency of exercising our powers so as not to give umbrage to a nation from whose policy we derive considerable advantage, especially as we are not in a condition to wage a war of commercial regulations with her. There may a time come, and soon, when our tonnage shall be increased, and our manufactures improved, so as to enable us to come forward with regulations adverse to the commerce of that nation. At present, I deem such measures impolitic; but, when the moment of our improvement arrives, I shall be as well disposed to enter on that business as any gentleman. At this time, it is certainly impolitic, inasmuch as it affects the revenue, and engages us in commercial hostilities. If the House only makes a diminution of two cents per gallon, and it should change the consumption from rum to brandy, it will be a very considerable loss on four million gallons—it will be eighty thousand dollars annually.

MR. MADISON.—I did not rightly comprehend the gentleman who has just sat down, when he supposed the discrimination which is moved for to be merely the payment of a tax or tribute to our allies, and, therefore, cannot reply particularly to what I did not comprehend; but I acknowledge with pleasure the services America derived from that nation, and I admit the justice of the debt we owe her; but I never meant that the preferences we are inclined to show her, in common with nations with which we have commercial treaties, should be considered as a tribute to our allies; I consider it rather as a lesson to those Powers that are not within that description. If it reduces the revenue, it is a good object so far as the reduction goes; if it is reduced one or two cents, it will have no sensible effect upon the amount of the duties collected from distilled spirits. In Virginia, brandy from France, imported in either French or American bottoms, is clear of duty, whilst the duty on rum is six pence per gallon that money. There have not, however, been imported more than 10,000 gallons annually, till very lately, and now it amounts to but 12,000, while the quantity of West India rum is from 500,000 to 600,000. This tends to show the proportion the two articles bear to each other, and the effect it would have on the revenue. The gentleman supposes that a difference of one or two cents will change the consumption from rum to brandy; but commercial people do not suddenly alter their operations. Besides, the habits and prejudices of the community are not easily removed; the habit of using rum is so fixed, that it will perhaps take more than a century to change it to another object—hence the evil, which the gentleman contemplates as resulting from the present

measure, must be remote indeed. But I am clearly of opinion, that a discrimination will have the most salutary effects; it will redound both to the honor and interest of America to give some early token of our capacity and disposition to exert ourselves to obtain a reciprocity in trade.

Let us review the policy of Great Britain towards us. Has she ever shown any disposition to enter into reciprocal regulations? Has she not, by a temporising policy, plainly declared that, until we are able and willing to do justice to ourselves, she will shut us out from her ports, and make us tributary to her? Have we not seen her taking one legislative step after another to destroy our commerce? Has not her Legislature given discretionary powers to the Executive, that so she might be ever on the watch, and ready to seize every advantage the weakness of our situation might expose? Have we not reason to believe she will continue a policy void of regard to us, whilst she can continue to gather into her lap the benefits we feebly endeavor to withhold, and for which she ought rather to court us by an open and liberal participation of the commerce we desire? Will she not, if she finds us indecisive in counteracting her machinations, continue to consult her own interest as heretofore? If we remain in a state of apathy, we do not fulfil the object of our appointment; most of the States in the Union have, in some shape or other, shown symptoms of disapprobation of British policy. Those States have now relinquished the power of continuing their systems, but under an impression that a more efficient Government would effectually support their views. If we are timid and inactive, we disappoint the just expectations of our constituents, and I venture to say we disappoint the very nation against whom the measure is principally directed.

It has been said, that Great Britain receives all the produce of this country in our own bottoms. I believe that in some ports of that kingdom our vessels are admitted, but those in the West Indies, into which we want admission most, are closely barred against us; but the reason that she admits us is, because it is necessary to repay herself for her exports to this country, and to constitute herself a market for this and the European nations. Adventitious causes have drawn within the commercial vortex of her policy almost all the trade of America; and the productions of the most distant climes, consumed among us, are tributary to her revenue. As long, therefore, as we do not protect ourselves, and endeavor to restore the stream of commerce to its natural channel, we shall find no relaxation on the part of Britain; the same obnoxious policy will be pursued while we submissively bear the oppression. This is a copious subject, and leads to serious and important reflections. After what has passed, I am certain that there is a disposition to make a discrimination, to teach the nations that are not in alliance with us that there is an advan-

tage to be gained by the connexion; to give some early symptom of the power and will of the new Government to redress our national wrongs, must be productive of benefit. We soon shall be in a condition, we now are in a condition, to wage a commercial warfare with that nation. The produce of this country is more necessary to the rest of the world than that of other countries is to America. If we were disposed to hazard the experiment of interdicting the intercourse between us and the Powers not in alliance, we should have overtures of the most advantageous kind tendered by those nations. If we have the disposition, we have abundantly the power to vindicate our cause. Let us but show the world that we know justly how to consider our commercial friends and commercial adversaries. Let us show, that if a war breaks out in Europe, and is extended and carried on in the West Indies, we can treat with friendship and succor the one, while we can shut the other out of our ports. By these favors, without entering into the contest, or violating the law of nations, or even the privilege of neutrals, we can give the most decided advantage.

I will not enlarge on this subject; but it must be apparent to every gentleman, that we possess natural advantages which no other nation does; we can, therefore, with justice, stipulate for a reciprocity in commerce. The way to obtain this is by discrimination; and, therefore, though the proposed measure may not be very favorable to the nations in alliance, yet I hope it will be adopted for the sake of the principle it contains. I should rather be in favor of a small discrimination than a large one, on purpose to avoid the loss of revenue which, any how, in this article, will be but trifling.

Mr. FITZSIMONS was firmly of opinion, that the trade of the United States was of so much importance to Great Britain, that she would willingly grant our shipping reciprocal advantages in the West India ports rather than run the risk of losing it; he was entirely in sentiment with the gentleman from Virginia, (Mr. MADISON,) that it would be possible to meet that nation with regulations that would force her to open her West India ports. If the importation of rum was to be prohibited to any considerable degree, it would produce this effect; for if it was not for the market the United States afforded for the consumption of rum, the sugar colonies would not be worth keeping; the rum alone bears the whole expense of cultivation. The quantity consumed in other parts is but small, so that a measure of this kind would have the most desirable effect; but how far it would be politic, at this moment, to adopt a severe remedy for the evil, was doubtful; it is, perhaps, much better to make only a small discrimination for the present.

He would not repeat the observation he had made on a former occasion, to show the policy of a similar measure, but would just add, that Great Britain took nothing from America which

APRIL 27, 1789.]

Duties on Imports.

[H. OF R.]

she could procure as cheap elsewhere, and there can be but very little danger that she will do any thing to make those articles cost the consumer more money; and any obstacles she might throw in to embarrass that part of our commerce must inevitably have that effect.

Mr. SMITH, of Maryland, in reply to the gentleman from New York, (Mr. LAWRENCE,) who had said that the British admitted all the produce of America into the ports of England, would call to the recollection of the committee a very considerable production which was restricted, unless it exceeded a certain rate in that kingdom—it is wheat and flour; besides, our vessels are always subjected to higher duties than British. For these reasons he hoped the clause would prevail.

The motion then for agreeing to the discriminating clause was put and carried, and the duties were ordered to be, on all spirits of Jamaica proof imported from nations in alliance, twelve cents per gallon; on all other spirits from the same nations, ten cents.

Mr. BOURNOT moved to reduce the duty on Madeira wine, from an apprehension that it would be injurious to the commerce of the United States. The observations he had made on a former occasion respecting the amount of the duty, the length of time it was requisite to keep this wine before it was fit for sale, and the embarrassment a forced sale must occasion to the merchant, induced him to endeavor to prevail on the House to lower the duty.

Mr. MADISON acquiesced in reducing this duty, because it was too high to insure its due collection, to twenty-five cents.

Mr. FITZSIMONS opposed the reduction, and thought the duty proportionably low; the collection of the impost on wine would be as secure as the impost on rum. As to the objection that the merchant could not pay them, he might either deposite a part as security for the payment, or bond the debt, and obtain time. He thought, as it was a revenue principally paid by the rich, that no objection could lie against continuing it at thirty-three and one-third cents.

The question on reducing the duty to twenty-five cents was put and carried.

The duty on all other wines was, of consequence, reduced from twenty cents to fifteen.

On motion of Mr. AMES, the duty on barley and lime was struck out; and shoes were reduced from ten to seven cents.

The remainder of the report was ordered to lie on the table.

The SPEAKER laid before the House a letter from the Vice President of the United States, notifying the House that the Senate had appointed the Rev. Doctor Provost Chaplain to Congress on their part; and then

The House adjourned.

MONDAY, April 27.

The engrossed bill to regulate the time and manner of administering certain oaths, was read

the third time and passed, and ordered to be sent to the Senate for their concurrence.

On motion,

Resolved, That this House will, on Friday next, proceed by ballot to the appointment of a Chaplain to Congress on the part of this House.

The SPEAKER laid before the House a letter from the Vice President of the United States, enclosing certain proceedings of the Senate, touching the ceremonial of the formal reception of the President of the United States, by both Houses; which were read, and ordered to lie on the table.

Mr. BENSON, from the committee of both Houses, appointed to take order for conducting the ceremonial of the formal reception of the President of the United States, reported as followeth:

"That it appears to the committee more eligible that the oath should be administered to the President in the outer gallery adjoining the Senate Chamber, than in the Representatives' Chamber, and therefore submit to the respective Houses the propriety of authorizing their committees to take order as to the place where the oath shall be administered to the President, the resolutions of Saturday, assigning the Representatives' Chamber as the place, notwithstanding."

The said report being twice read,

Resolved, That this House doth concur in the said report, and authorize the committee to take order for the change of place thereby proposed.

The SPEAKER laid before the House a letter from the Vice President of the United States, enclosing two orders of the Senate, one of the 13th instant, appointing a committee to confer with any committee to be appointed on the part of this House, respecting the future disposition of the papers, &c. in the office of the late Secretary of the United States: the other of the 27th instant, for the attendance of both Houses, with the President of the United States, after the oath shall be administered to him, to hear divine service at St. Paul's Chapel: which was read, and ordered to lie on the table.

DUTIES ON IMPORTS.

The House resumed the consideration of the resolutions reported by the Committee of the whole on the state of the Union.

Mr. FITZSIMONS proposed that a duty of one hundred cents be laid on cables and cordage, instead of the fifty cents. He hoped this alteration would take place, otherwise the object the committee had in view would be defeated. It is now become the interest of the importer to introduce cordage instead of hemp; the freight is lower and the value greater.

Mr. GOODHUE said that there ought to be a proper proportion observed, and therefore he would second the motion.

Mr. MADISON thought the question deserved a careful examination; it had been discussed in the committee, and it was then determined to

be as necessary to promote agriculture as manufactures; that the labor of extracting materials from the bosom of the earth was as useful as that employed in giving them form; nothing had been said to invalidate that policy; and therefore he did not see it requisite to cherish the one more than the other by protecting duties.

Mr. FITZSIMONS admitted the policy of encouraging agriculture. He was with the gentleman in that measure; he hoped it might tend to supersede the necessity of importing both hemp and cordage; but if some distinction was not made at present to give the latter an advantage over the former, we should have cordage imported altogether, and the manufacture destroyed for want of materials.

Mr. GERRY remarked, that the duty which was laid on cordage was intended to give a preference to the manufacture of that article; fifty cents was deemed equal to the object, but no sooner was it laid, than the committee imposed a duty of fifty cents on hemp, by which means the manufacture was as much without encouragement as if nothing had been done. He begged gentlemen to consider how important a manufacture of this kind is to the navigation of the country, and he was persuaded they could not hesitate to agree to the motion now proposed.

Mr. MADISON observed, that if cordage was so essential an ingredient in navigation, hemp was also useful; he doubted from the beginning the policy of subjecting either of them to a duty. It was unnecessary to repeat the arguments he had urged on a former occasion; the House would recollect them, and be satisfied that it was improper to raise the price of an article necessary to ship-building.

Mr. WADSWORTH.—There is a material difference between the two objects. There is but little hemp raised in America; the manufacture of cordage is carried to great perfection; if a duty is laid upon the former, it will be necessary to lay it heavier upon the latter, or we shall prevent the European hemp from coming amongst us; the making of cordage will be altogether at a stand in America, while all our supplies of this article are drawn from Europe; the consequences will be dreadful. The loss of this manufacture will go far towards annihilating our navigation.

Mr. MADISON said, that one hundred cents was too much to be allowed on cordage. As a difference was necessary in the duty between the two articles, he would move seventy-five cents.

The question on one hundred cents was taken and lost, and seventy-five cents adopted. It was then proposed by Mr. FITZSIMONS that tarred cordage should be taxed ninety cents; this was agreed to. On motion of Mr. HEISTER, a duty of sixty cents on hemp was agreed to, but not to take place till the 31st December, 1790. Twine and packthread was raised to two hundred cents per one hundred and twelve pounds.

On molasses:

Mr. GOODHUE.—The committee have postponed

ed the consideration of this subject, in order to indulge the members of Massachusetts with an opportunity to get information, that so they might meet the discussion with greater ability; but I believe they have been unsuccessful on this head. No communications have been received from our State; we must therefore proceed to consider and judge the question by those lights which our own minds afford. The article of molasses is intimately connected with the fisheries of our country; it is produced almost altogether in the French West India islands; it is procured from them in exchange for our fish; nine months are our fishermen employed on the banks, but a part of the summer months the fish they catch is unfit for any other market; therefore, if we do not find a market for this kind of fish, they must remain unsold, nor can we get any thing in return even when it is sold but molasses or rum; for they allow us to bring away no other articles. The reason why they allow us those is, because they do not wish them to be imported into Europe, lest they should interfere with their wines. It is a well known fact, that if we did not take those articles, they would prohibit our fish. From this view, it appears to me, that if the importation of molasses should fall through, our fisheries must fall with it: it will likewise be well for the House to consider, that molasses is a necessary of life; at least custom has made it such among the poorer class of our people; those who cannot afford the expense of sugar, use molasses. Each of our fishermen consumes, on an average, twelve gallons annually, while employed in his business. Now the committee have duties this article at thirty per cent. upon the prime cost, which is greater in proportion to its value than any on the list. The reason that was urged in support of a high duty was, that the revenue might be raised from country rum, in a ratio with what had been levied on West India. If this is the principal reason, I think it would be more just to raise it by way of excise at the still-head, and not include that in the rough state consumed by the poor. To equalize this duty, we have agreed to one penny a pound on brown sugar; but six cents per gallon on 30,000 hogsheads of molasses will raise 180,000 dollars, which is a much greater sum than all the sugar consumed in America will pay. Massachusetts imports that quantity of molasses, and would contribute more than Pennsylvania for all the rum and sugar imported into that State; for, on a calculation from the late statements, I find the duty on both these articles amounts to no more than 164,000 dollars; yet Massachusetts imports her proportion besides of West India rum and sugar. Now, it appears to me, that on the principle of equality, this duty is too high, because it affects one State more than all the others together; besides it is too high in comparison with the duty now collected in the several States. In New York it is trifling; in Virginia it falls among the mass of non-enumerated articles; in Massachusetts it pays no duty. I am well persuaded

APRIL 27, 1789.]

Duties on Imports.

[H. OF R.]

ed, that the House would not wish to subject any State to heavier burthens than the others; but it will be the case, unless they separate the distilled spirit from the raw substance. If this can be done no other way, it can be done by excise, which will give less umbrage to Massachusetts than so high an impost. The House will therefore consider well before they decide the question, and on principles of justice and policy reduce the duty.

Mr. SHERMAN had not made up his mind on the subject; but he thought it necessary that some way should be devised of coming at a proportionable duty on country rum, otherwise the preference it would obtain by the lowness of the price must occasion a considerable diminution of the revenue, by lessening the consumption of foreign rum. If an excise was an agreeable tax, perhaps it might be so managed as to answer the end; but he feared it was a disagreeable one in some States, and ought therefore to be well considered before it was laid. He would, while he was up, mention another idea. He had said, in a former debate, that he would rather give our allies a preference over other foreign nations in any article than spirits. Molasses is an article principally imported from the colonies of nations in alliance; a discrimination, therefore, in favor of such molasses would be a substantial benefit, and he recommended it in lieu of that on brandy.

Mr. JACKSON was opposed to a reduction of the duty; he thought it ought to be laid high, in order to come at the necessary tax on rum. He knew the distilleries gave a gallon of rum for a gallon of molasses, and therefore the impost on each ought to be in due proportion, otherwise country rum would be sold fifty per cent. cheaper than West India. If he considered the subject, as it related to the morality and health of his fellow citizens, he might venture to pronounce the New England rum five hundred times as bad in its effects as any from the West Indies; if therefore the House wished to obtain revenue, or discourage the use of bad spirits, they would continue the present rate.

Mr. GERRY.—It is clear by this time to the House, that we have in contemplation no other mode of obtaining revenue but the impost, at least for the present; the impost must come from the commercial States, and therefore the burthens should be light, or one part of the community is oppressed more than the other. It may be said, that the duty falls eventually upon the consumer, and therefore all the States participate in the payment. But gentlemen will admit the importer pays the revenue in the first instance, and I grant that if he sells his commodities on good terms, he provides for the repayment; but in case of failure in the person to whom he sells them, he loses the duty, and the consumer does not pay it. Considering the deplorable condition of our country, it is not unlikely but misfortunes of this kind will frequently happen. This argument is directed against high duties generally, or, in other words, it is

directed against the rate of almost every article on the list. The article of molasses is now imported under very great disadvantages, but if it is burthened with an impost of six cents per gallon, the trade must be given up; the price of it has latterly increased in the West Indies so much as to make it scarcely worth importing. If on a cargo of two hundred hogsheads a merchant has to pay down three hundred and ninety-six pounds more for the impost, he had better not bring it; but gentlemen will tell us, that he may have time by giving security for the payment. Sir, such is the scarcity of money in the country, that it will put him under the necessity of forcing a sale for the molasses. But if the whole of this article was made into rum, six cents would be an over proportioned duty, both as it relates to the price and quality of West India rum; but when the fact is otherwise, and very large quantities are consumed in the raw state by the people, and the poorest of the people too, it certainly must be judged too heavy. There are no breweries in our country; it may be our misfortune, but the people there use molasses, with spruce and hops, as a substitute, and why should they be taxed for this inoffensive liquor more than the consumers of beer brewed from malt? How would the middle States view a tax on malt beer? They would think it unwise and oppressive; yet a tax on molasses affects the Eastern States in a similar manner.

This duty will prevent the sale of molasses to the distiller; it must reduce his capital, and he cannot buy so much as he used to do; to obviate this objection, it is proposed that a drawback shall be allowed upon what is exported. But why should such policy be necessary? It is very well known that drawbacks injure both trade and revenue, and ought therefore to be avoided.

My colleague over the way has justly stated the injury it will do the fisheries. At a time when the policy of every country is pointed against us, to suppress our success in this important branch, when it is with extreme difficulty that it continues its existence, shall we lay burthens upon it, which it is unable to support? A fisherman uses, while engaged in his occupation, twelve gallons of molasses; add to this what is consumed in his family, and one man will on an average pay one hundred and eighty cents. Can gentlemen tell you that one hundred and eighty cents is no burthen upon that class of men, while its operation is as a poll-tax, a poll-tax towards which the poor contribute more than the rich. Every incumbrance laid upon this branch of our trade acts in the nature of a bounty to other nations. If this important interest is injured, it will not only destroy the competition with foreigners, but will induce the people to sell their property in the United States, and remove to Nova Scotia, or some other place where they can prosecute their business under the protection of Government. There are at this time four hundred and eighty sail of vessels engaged in the fisheries, amount-

H. OF R.]

Duties on Imports.

[APRIL 28, 1789.]

ing to 27,000 tons, constantly employed during the season; it may fairly be supposed that the exportation of the fish requires half as many more, say thirteen thousand tons; and is this interest, together with the ship building and fishermen, to be sacrificed for a revenue, which is unjust and unequal in its principles? Do gentlemen flatter themselves it will be borne without murmuring? It certainly will not; for these people, in adopting the constitution, expected to be relieved from burthens? If they find them increased, it is natural to suppose they will be dissatisfied.

It has been frequently observed, that rum is injurious to the morals of the people: If I could have my wish, it should not be to diminish, but to annihilate the use of it, both foreign and domestic, within the United States; but to encourage the importation from the West Indies, and destroy our own distilleries, can never be good policy, yet a duty of six cents per gallon on molasses will destroy the capitals of the distillers and ruin the men. But why do this? To prevent the use of rum! yet gentlemen consider the consumption of spirits as their great source of revenue. It has been observed, that the tax is unequal, and that the duty on molasses used in Massachusetts will amount to more than all the duties on molasses, rum, and sugar used in Pennsylvania. I would be glad then to know, upon what principle gentlemen extend the duty to such a height on molasses? Will any gentleman say it is more a luxury than sugar? and yet it is taxed in more than a double proportion to it. In short, whether it is considered as it affects our fisheries, our ship building, and our commerce, or whether we consider it as too high for collection, which it certainly is, it must be admitted that the object is not worth the sacrifice, especially as it may be accomplished in a more just and certain manner by an excise.

Mr. SYLVESTER concurred in the tax for the purpose of raising revenue, but he did not wish it to bear hard on any class of citizens, especially the poorer class. Was all the molasses imported distilled into rum, he should not have hesitated to lay even a higher duty; but as the gentleman had explained the effect it would have in Massachusetts, he was inclined to agree with the eastern members, and reduce it one cent, so as to stand at five; but as it was growing late, he moved an adjournment, which being agreed to by the House—adjourned.

TUESDAY, April 28.

Mr. RICHARD BLAND LEE, from the committee to whom was recommitted the report respecting the mode of communicating papers, bills, and messages, between the two Houses, reported as followeth:

"When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the doorkeeper, and shall be respectfully communicated to the Chair, by the person by whom it may be sent.

"The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

"Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper."

The said report was twice read, and, on the question put thereupon, agreed to by the House.

A letter from Matthias Ogden, of New Jersey, referring to sundry petitions from citizens of that State, complaining of illegality in the late election of Representatives for that State to this House, was read and ordered to lie on the table.

The order of the Senate of the 13th instant was read, appointing a committee to confer with any committee to be appointed on the part of this House, respecting the future disposition of the papers in the office of the late Secretary of the United States: whereupon,

Ordered, That Messrs. TRUMBULL, CADWALLADER, and JACKSON, be a committee for that purpose.

DUTIES ON IMPORTS.

The House resumed the consideration of the resolutions reported by the Committee of the whole on the state of the Union.

The impost on molasses being under consideration,

Mr. SHERMAN.—This subject was spoken of pretty largely yesterday; I wish the gentlemen would come forward with some plan that will secure the revenue on rum. They intimated that this could be done by way of excise; if it can I shall have no objection to reducing the impost on molasses to two cents, as I do not wish to burthen the consumption of that article in the raw state.

Mr. WADSWORTH.—I am opposed to a high duty on molasses for the reasons assigned yesterday. Besides, the arguments respecting the morals and health of the people are not well grounded; the fishermen and seamen belonging to the Eastern States are the principal consumers of country rum; they drink more of it perhaps than any other class of people, yet they are a healthy, robust set of men; and as for their morals, I believe they will not suffer from a comparison with their neighbors. But let us waive any further remarks on this head, with which at this time we have little to do, and consider the effect a duty of six cents will produce. The capital employed in this business of distillation amounts, at least, to half a million of dollars; it has been proved that the fisheries depend upon the molasses trade; this trade cannot be carried on unless the article is manufactured into rum, and if the manufacture is encouraged, it is likely to become an important branch of commerce. Considerable quantities of New England rum are at present sent to Africa and other parts, and a market is lately opened for it in the north of Europe. This extension of our commerce is a likely way to increase the number of our seamen; the fisheries

APRIL 28, 1789.]

Duties on Imports.

[H. OF R.]

are one of the best of nurseries for this purpose, and gentlemen admit the necessity of improving our maritime importance; but the whole of this business is so connected with the molasses trade that, if you destroy that, the others must fall with it.

The duty being so high will never be collected; the people conceiving it to be an unequal and unjust tax, will justify to themselves the illicit trade which you drive them into. Every individual will be interested to smuggle the article, and the extent of their sea-coast, their numerous inlets and harbors, will furnish abundant means for doing it without fear of detection. I will venture to say, that one-fourth part of the duty can never be collected, even if you fill the country with custom-house officers; but, if it could be collected, the trade of New England and the fisheries would be ruined; a capital of half a million of dollars would be thrown out of use, and thirty thousand tons of shipping would be unemployed; for which reason, I hope the House will join in reducing the duty.

Mr. THATCHER.—I did not intend to rise on this occasion, because commerce is a subject with which I cannot pretend to be well acquainted; yet as the interests of my constituents are at stake, and the impolicy of the measure is so glaring as not to require any very deep researches, I may venture to give my opinion without being deemed presumptuous; besides, I might not give my fellow-citizens that satisfaction, in the performance of my duty, which they have a right to expect, if I were to pass the subject over with a silent vote.

It has, on former occasions, been argued, by the members of this House, that a duty, which is in itself either unreasonable or partial in its operation, ought not to be laid, unless for the purpose of equalizing the system. Now, that a duty of six cents on molasses is unreasonable, will appear, if we only consider it as a necessary of life, or as a raw material requisite for the well-being of an important manufacture. It is a necessary of life; the people in the Eastern States have been so long in the habit of using it in their food and drink, that it would be little less than a revulsion of nature to change them from it. We have done something on this occasion to favor the breweries in the middle States; then why should we deprive our Eastern brethren of a simple liquor which they equally approve.

It has been proved that the success of the navigation and fisheries of Massachusetts depend upon this trade; six cents will amount to a prohibition; then the question will regard the policy of producing such effects by our regulations. This article, considered as a raw material for a well established and profitable manufacture, ought not to be prohibited; but when it is distilled into rum, it is said to be injurious to the health and morality of the people. I shall not take up the time of the committee with an examination of this position; but sup-

posing it to be admitted, I will ask the gentlemen if molasses ought on this account to be taxed any more than other materials that are worked up into more pernicious liquors; such as rye, apples, and peaches? What would be the opinion of the gentlemen from Virginia, if a member was to propose a duty on those articles equal to six cents, and urge as a reason for so doing, that it was necessary, in order to keep up the ratio between whiskey and Jamaica spirits? I conceive they would deem the proposition and argument absurd; they would never consent to its being done. What, then, ought to be the language of the people of New England on a proposal for taxing an article equally as useful to them as fruit is to the Southern States? I will place the subject in one other point of view, with the leave of the Chair, before I conclude the subject. How is the molasses brought into the State? It is the exchange procured by the hard labor and industry of the Eastern inhabitants; they toil late and early, day and night, in a business beset with danger and difficulty; they go in search of fish to the Banks, remote from their home, and when these are procured, they cannot consume them; they must dispose of them to foreigners. But no market offers unless by barter; it is of necessity that they bring back molasses in exchange; this then becomes the produce of their industry, as much as the rice and tobacco of Virginia and Carolina become the staple articles of the labor of those States. Can any reason be assigned why the industry of Massachusetts should be imposed, while that of the other States goes free; and to my mind it is equal, whether the produce itself, or the returns for it, are subjected to a duty. The effects are the same; it operates to discourage the pursuit; but the returns for tobacco and rice are not imposed in any thing near a proportion with molasses. Let us compare it in one other point of light. Suppose a member from Massachusetts was to propose an impost on negroes, what would you hear from the Southern gentlemen, if fifty dollars was the sum to be laid? And yet this is not more than the proportion laid upon molasses. If the pernicious effects of New England rum have been justly lamented, what can be urged for negro slavery? Certainly there is no comparison; but I will avoid the enumeration of its evils, and conclude with a hope that, if the House will not condescend to strike it out, they will reduce it to two cents. It will be unnecessary to recapitulate the immediate connexion between this article, the fisheries, and our navigation. I trust it is clearly seen by the House, if a high duty is still insisted upon molasses, you will have to go further and provide energetic means for the execution; for the people will hardly bear a tax which they cannot but look upon as odious and oppressive. If gentlemen are determined in persisting on what was carried in the Committee of the whole, they ought to know, with as much precision as possible, what they are to

H. OF R.]

Duties on Imports.

[APRIL 28, 1789.]

expect. If the support and good will of 400,000 citizens are worthy of cultivation, the House will decide the present question with candor and moderation; they will ever consider that their laws ought as much as possible to be conformable to the customs, habits, and sentiments of that people whose conduct they are intended to regulate.

Mr. BOUDINOT.—I am sorry, Mr. SPEAKER, at this stage of the business, to hear any thing that sounds like an attachment to particular States, when we are laying a general duty to affect the whole. For my part, I consider myself as much the representative of Massachusetts as of New Jersey, and nothing shall prevail on me to injure the interest of the one more than the other. I profess myself a friend to the present revenue system, because it is the best way of getting money to supply our necessities. I am the more attached to it, because I conceive it will prevent an application to direct taxes. I say, I would avoid every thing which would make a difference between the States, and therefore I like the system before you; it goes upon the principle of mutual concession. It would be impossible to impose a duty on any article that will not affect one State more than some others; but we have endeavored to equalize the burthens as much as possible. I confess, at the same time, that I consider the duty on molasses too high; but it is for the same reason that I consider all the other articles too high. I do not conceive that it is much out of proportion to rum. The object I have in view by the impost is, to produce revenue enough to answer the necessities of the United States, and to have it done according to system. I have endeavored to establish some principle by which we should be governed in laying the duties. I have endeavored to do this in my own mind, and have fixed on about twenty-five per cent. on the value of the articles at the time and place of importation. If we infringe this principle, it ought to be in favor of a raw material, to increase the manufacture of an article within the Union, or secure the collection of the revenue. I confess, Mr. SPEAKER, I agree with the gentlemen from Massachusetts that six cents are too high. If we reckon the cost of the molasses, we shall find five cents to be nearer the proportion of twenty-five per cent. which we have laid on other articles. If we consider it as a raw material, we ought to make some further allowance; if we admit, on this account, the reduction of one cent more, it will be as much as is necessary. If we then take up the idea that molasses is a necessary of life, and that a great part of it enters into the support of the inhabitants, I think we may justly lower it another cent. By this allowance we shall come down to a proper medium, and secure the collection of the duty. If we could accomplish our object of taxing rum in any other way than by laying a duty on the raw material, perhaps it might be proper to reduce it to what gentlemen have mentioned; but,

as I despair of this, I think three cents would be as low as we ought to go. As to the proposition for an excise to be levied at the still-head, I cannot vote for it; the very name of such a tax is odious, nor will the multiplication of officers necessary to collect it be less so; but I believe this idea has not met any countenance in the House.

It has been hinted, that four hundred thousand people disapprove the measure. I give every weight to information which gentlemen lay before the House, but in this case I take it to be no more than matter of opinion. I have so high an idea of the good sense and patriotism of the citizens of Massachusetts, that I never can be persuaded that if this House, on principle, think it expedient to lay a duty on any particular article, the inhabitants of that State will rise in opposition to the measure. I believe them to be as well affected to the Government as any other part of the United States, and that our acts will receive as ready attention and as prompt execution among them as elsewhere, provided we act on principle.

I felt myself sorry to hear a comparison drawn between the Eastern and Southern States. I thought the reasoning used on that point fallacious; the principles were not true; so, of consequence, the conclusion was erroneous. The inference was this, that from the labor and industry of the Eastern people fish were obtained, and from the labor of the Southern States, other articles of commerce were produced. The question was then asked, why should the articles obtained in exchange for the one be subjected to higher duties than the other? If this were the case, I should admit, with the gentleman, that it was a partial imposition; but do not we lay an equal duty on the articles imported into the Southern States? Let the gentleman examine the list, and say, if the articles taken in exchange for tobacco and rice do not pay as much as molasses. Some articles essential to agriculture are considerably taxed, such as steel and salt; but they pay above twenty-five per cent. on the rum they receive, which is more than I contend ought to be paid upon molasses. But gentlemen ought not to contend that all the duty paid on molasses is taken out of the pockets of the inhabitants of Massachusetts. They export to other parts of the United States great quantities of their rum, the consumer of which repays the duty on molasses. The port of Philadelphia alone, in one year, received of this article 360,000 gallons; will not the consumer in Pennsylvania, therefore, pay the duty on that quantity?

I consider the object we ought to have in view is, to lay our duties upon solid principles. I have given the principles upon which we ought to reduce the impost on molasses to three cents. I will only now mention the temptation that six cents would be to smuggle; but, as I instanced before a fact relative to this circumstance, I will not repeat it, contenting myself in stating to the House my fear that a high duty will be

APRIL 28, 1789.]

Duties on Imports.

[H. OF R.]

unproductive, while a low one will be more favorable to the revenue.

Mr. MADISON.—I shall make no observation, Mr. SPEAKER, upon the language of the gentleman from Massachusetts, (Mr. THATCHER,) because I do not conceive it expresses either the deliberate temper of his own mind, or the good sense of his constituents. I am more inclined to try this measure by the rule of justice, than on the imaginary effects which gentlemen's apprehensions fear it will produce. I do not find, from what has been said yesterday or this morning, that the arguments have taken a different turn, or that the opposition is supported on any other principles than it was on a former debate. The subjects that were before discussed have been repeated and amplified; but no new matter has been offered; nothing has been said to invalidate the former decision of the committee. We are told again, that the consequence of so high a duty on molasses will be the destruction of one part of our commerce important to our allies, and essential to a considerable manufacture; that without this branch of commerce our fisheries cannot be carried on. I should have supposed that, in order to make good this doctrine, the gentlemen in opposition ought to have shown what disadvantage the manufacture of rum would be exposed to greater than it used to be when the molasses stood clear of duty, but had the competition of West India rum, also without duty. I find, before the revolution, that the quantity of molasses annually imported, amounted to 3,580,144 gallons; the quantity of rum manufactured within the same period, was 2,534,252 gallons. At this time West India rum was subjected to no duty, and molasses paid one penny sterling per gallon, nearly equal to three cents, or half the present duty. Now, if the manufacture was carried on with profit (and the extent of it proves that it was productive) when it had to contend with a duty of fifteen per cent. on the value of the raw material, against a superior liquor imported duty free, is it to be imagined that this trade is to be destroyed by a duty only double on molasses, when the competition is supported by an impost fifty-fold of what it was before, against foreign rum? I think it can be demonstrated from calculation, that if the duty was extended to fifteen cents per gallon, it would still receive encouragement superior to what it had before the revolution. If we compare the state of the manufacture since the revolution, we shall find it laboring under greater disadvantages than what can arise from the proposed duty. In almost all the States it has been considered and treated as foreign rum; yet even under the disadvantage which this must have occasioned, we find that the exportation to the several parts of the United States, amounts annually to 500,000 or 600,000 gallons; a certain proof that it is able to carry on a successful competition in America with West India rum, without the aid of Government; and that the preference given by this revenue sys-

tem, and by the new constitution, which permits its free entry into every State, will enable the manufacture to rise into an importance hitherto unknown to it.

We are told that molasses is not merely used in the distilleries, but that it enters into the subsistence of the inhabitants as an article of food, and that in this light it bears harder upon the poor than upon the rich. I will not deny but the consumption of molasses in substance is greater in the Eastern States than in the others; but I do presume that this disproportion of consumption is productive of an equalization in the system. If we compare the consumption of the Northern and Southern States, as it respects the articles of sugar and molasses, we shall find that the duty on the molasses does not bear harder upon the one than sugar does upon the other; for reduce a gallon of molasses to weight, in order to make the comparison fairly, you will find it weighing at least eight pounds; now, eight pounds of this article, taxed at six cents, cannot be so much as eight pounds of sugar at one cent per pound, so that on the ground of equality I do not see there is any room for the opposition to maintain themselves. It has been said, that the duty will be burthensome on the merchants, and require greater capitals than they possess, or will necessarily lessen their operations. There may be some weight in this consideration; but let me ask the gentlemen if it does not apply to our duties in general. Will they say that the objection is sufficient to deter us from this mode of taxation? I apprehend it will not be said, because it has been constantly admitted in this House, that although it is an inconvenience, yet it is such a one as must be submitted to, to avoid a greater; either we must derive a revenue from this source, or take a mode much more exceptionable.

But how will it affect the fisheries? It is said that if rum is indirectly taxed, through molasses, it will ruin this interest; yet, at the same time, the State of Massachusetts collects near seventeen cents per gallon from rum. Then there must be a drawback allowed on what is consumed in that business; but I am informed there is no drawback allowed, so that the fisheries at present labor under greater discouragement from the policy of Massachusetts, than they will be exposed to from the policy of the United States. The gentlemen have told us that the duty cannot be collected, from a supposition that the officers will neglect their duty, or that the high impost furnished such a temptation that the people cannot withstand it, and must, of consequence, engage in an illicit trade. If this supposition is warrantable, how can the duty affect the fisheries? If it is not warrantable, can it be supposed that a duty of three-fourths of a cent on a pound of sweetening, in the form of molasses, will mortally affect the terms on which the fishermen carry on their business? And will it contribute to the success of other nations engaged in the same employment? When gentlemen so repeatedly tell us

it will be impossible to guard against smuggling, I own it has made some impression on my mind. I fear we shall encounter difficulties in this part of our regulations; but I trust they will not be greater, as they respect the collection of a duty on molasses, than on other articles, the bulk and weight of which, added to the smallness of its value, will rather deter people from engaging in a clandestine trade of this kind, than almost any other. I believe more just apprehensions may be entertained with respect to tea, a pound of which is taxed at twenty cents. I do not, therefore, conceive that the arguments drawn from the danger of smuggling molasses are of an insuperable nature.

It has been suggested to the House, that there would be more propriety and convenience in substituting an excise in lieu of part of the impost duty. For my part, I consider such a tax inexpedient, if not impolitic. It will not be necessary to go into a discussion of its expediency, for it is a question not before the House. It will be time enough to enter upon the subject when it has been proved by experience that the impost is ineffectual; at present, I will content myself with observing, that an excise, in my opinion, would be received with indignation in some parts of the Union, and it is not for this Government to disgust any of its citizens if it can be avoided.

It has been said, that the duty agreed to by the committee is higher than has been laid by any particular State upon molasses. Granted: but are gentlemen unacquainted with this circumstance—all the rum imported from New England into those States was subjected to a heavy duty, and the duty on the rum answered the purpose which the committee had in contemplation, when they agreed to six cents per gallon on molasses. The States have now disqualified themselves from this means of self defence; if the General Government, therefore, does not defend them, they will be abandoned altogether to the effects of a torrent poured in upon them by the Massachusetts distillers. Surely gentlemen who are in favor of reducing the impost on molasses, do not consider the effect it will have upon the revenue; when it stands at six cents, it leaves a bounty of several cents to favor a competition with West India rum. We have been witnesses to the great quantity manufactured even when the raw material had a high duty upon it, and had to contend with foreign rum, which was duty free. I have no doubt but under this favorable regulation the manufacture will increase; if the duty shall be reduced, we bid fair to lose the great revenue we expect from West India rum, and have its place supplied with a baser spirit. Thus the interests of 3,000,000 of our fellow-citizens are to be sacrificed to the establishment of a few distilleries.

If, on a general view of the system, gentlemen had proved that Massachusetts would be injured, they might, with propriety, contend

for the reduction of this article; but I think I can say with truth, and support the position, that that end of the continent will not bear a greater proportion of the public burthen than the other: there are, as has been often remarked before, parts of this system which bear harder upon some States than others; but, take the whole together, the duties will not be unequal. Those States that raise less produce export less; consequently they import less, and consume in the same proportion: if so, they must pay less impost than other States. It is on these principles I contend against a reduction of the duty, and I think the House, upon a strict examination of the subject, will be found to have shown a great degree of liberality to their Eastern brethren, when they were satisfied with carrying the impost on molasses no higher than six cents.

Mr. AMES.—I appeal, Mr. SPEAKER, with confidence, to the justice of this House, though I am far from being convinced that any liberality has been shown in fixing the duty on molasses; but I am persuaded that Congress will adopt no measures but those they can justify on principle to their constituents.

I conceive, sir, that the present constitution was dictated by commercial necessity more than any other cause. The want of an efficient Government to secure the manufacturing interests, and to advance our commerce, was long seen by men of judgment, and pointed out by patriots solicitous to promote our general welfare. If the duty which we contend against is found to defeat these objects, I am convinced the representatives of the people will give it up. I trust that gentlemen are well satisfied, that the support of our agriculture, manufactures, navigation, and fisheries, are objects of very great moment. When gentlemen contemplate the fishery, they admit its importance, and the necessity we are under of encouraging and protecting it, especially if they consider its declining situation; that it is excluded from those advantages which it formerly obtained in British ports, and participates but in a small degree of the benefits arising from our European allies, whose markets are visited under severe restrictions; yet, with all these discouragements, it maintains an extent which entitles it to the fostering care of Government. There are taken, upon an average, 400,000 quintals of fish; in this branch of business, as was stated by my colleague, there are employed 24,000 tons of shipping in the transportation of the fish to market, and, in the returns of molasses, near an equal tonnage is employed. The building of these vessels furnishes no inconsiderable employment to another important interest; the vessels, it is true, are but small, yet, after every deduction on this account, the concern will be found interesting to the public welfare. If it is true, and I believe it is, that agriculture and commerce are mutually dependent upon each other, and there is a probability that the additional burthen we have imposed will injure the latter,

APRIL 28, 1789.]

Duties on Imports.

[H. OF R.]

gentlemen ought to be cautious how they persist. If they even doubt of its effects being hurtful, they ought not to vote for its continuance; now, I think I can raise such doubts in gentlemen's minds, and dare commit myself to their candor for the consequences. Notwithstanding gentlemen have expressed a uniform desire to encourage manufactures, (and I have been with them in accomplishing this object,) they now desert their principles. When it has been contended that the duty ought to be low, inasmuch as molasses is a raw material, it has been replied, that the manufacture is pernicious. It has been said, that promoting our own distillation will exclude foreign rum, and consequently affect the revenue; but does not the same argument apply to every article of domestic manufacture? Has it not all along been contended, that it is proper in the General Government to nurture those interests which have had the particular regard of the individual States, upon the principle that the State Legislatures knew feelingly what were the best means to advance their interest? Has not the position been fully established, that promoting the interests of particular States increases the general welfare? After this, can gentlemen tell us we are advocating a local policy? That we are sacrificing the interest of 3,000,000 of people to the establishment of a few New England distilleries? For my part, I ground my opinion upon national principles; and from these I conclude, that molasses ought not to be taxed, or taxed but very lightly.

The gentleman from Virginia fears the loss of revenue from the success of this manufacture. To quiet his apprehensions, it will be only necessary for me to remind him of what he ingeniously urged a few days ago on this point, in order to obtain a discrimination in favor of the brandy of France. He told us, that, although the State of Virginia had imposed no duty on brandy, but a heavy one on West India rum, that under this encouragement there were not more than 10,000 gallons of brandy imported, while there were 600,000 gallons of rum; inferring from this fact, that there was no probable ground for suspecting the consumption to change from the one to the other article. If no danger is to be apprehended from brandy, much less can New England rum stand a competition with Jamaica spirit; the force of habit will not be more easily overcome in this case than the other. Besides, it is well known that a great proportion of the people will not drink it at all; it is a kind of genteel thing to affect disgust and loathing at the very name, much less will they suffer the despised liquor to pollute their mouths. So far are we from having ground to dread the effect of a competition on this side, that the contrary may be justly apprehended. The custom and fashion of the times countenance the consumption of West India rum. I consider it good policy to avail ourselves of this means to procure a revenue; but I treat as idle the visionary notion of reforming the morals of the

people by a duty on molasses. We are not to consider ourselves, while here, as at church or school, to listen to the harangues of speculative piety; we are to talk of the political interests committed to our charge. When we take up the subject of morality, let our system look towards that object, and not confound itself with revenue and protection of manufactures. If gentlemen conceive that a law will direct the taste of the people from spirituous to malt liquors, they must have more romantic notions of legislative influence than experience justifies.

When it was asked, what is the occasion of a high duty? It was answered, that it is necessary in order to come at the proper tax on rum; but I insist, that there is no such necessity while an excise is within our reach, and it is in this mode only that you can obtain any considerable revenue. The gentleman from Virginia has said, that the manufacture of country rum is in no kind of danger of destruction from the duty on molasses. He has stated to the House the quantity made before the revolution, and goes on to argue, that as West India rum paid no duty, and molasses paid some, if the manufacture thrived under these disadvantages, why should it not continue to support itself in future? I believe this matter easy to be accounted for, though I fear it will not be in my power to make a proselyte on the occasion. I should be vain of such success, and therefore I shall proceed. There were many very considerable markets for New England rum cut off entirely by the revolution; even those that remain we have to encounter with rivals, who successfully contend for a preference. Previous to the late war, we had a market in Nova Scotia, Newfoundland, and Canada, all the Southern colonies, Europe, and Africa. We are now obstructed from going to many of those, to Quebec, and Newfoundland; and our trade gains no ground in others to make up the difference. Consider the state of the fisheries. At that time we possessed them unrivalled; it was the policy of Britain to favor our efforts; believing that our success tended to increase her maritime strength, she dealt out to us an annual bounty equal to £20,000 sterling, for the fish we took. All her ports were open to us; we could carry it to what market we pleased, and obtain molasses at a low price for the distilleries. But the present state of the business bears no comparison with its former situation; the trade is confined to a less channel, in which, instead of bounties, we meet with restrictions. Our fish pay a duty of twelve dollars a quintal, which is given by Government as a premium in favor of their own fisheries. This imposition amounts to more than the value of the article; yet, even under all these discouragements, there are but six ports in the West Indies that we can go to: St. Lucia, three in Hispaniola, one in Guadeloupe, and one in Martinico. This being the case, the duties are rigidly exacted of us, and we have no other means of vending it but by the exchange of molasses. Nor is this the end

H. of R.]

Duties on Imports.

[APRIL 28, 1789.]

of the evil; I fear it is seriously to be apprehended that we may shortly be deprived of this market also. The merchants of L'Orient have represented to the King, that it would be for the interest of their colonies to distil the molasses in the islands. Upon the strength of this idea, distil-houses are erected there, and bid fair to rival us in the business of supplying not only Europe and Africa, but even our own country. Now, from this view of the ground on which we stand, will gentlemen say, we can maintain and defend ourselves as well as we did before the war? If we even had the same advantages in vending the rum, the business would not be equally profitable, as the price of molasses has increased, and our fish has fallen. In short, unless some extraordinary measures are taken to support our fisheries, I do not see what is to prevent their inevitable ruin. It is a fact, that near one-third of our fishermen are taken from their profession—not for want of skill and abilities in the art, for here they take the rank of every nation on earth—but from the local, chilling policy of foreign nations, who shut us out from the avenues to our market. If, instead of protection from the Government, we extend to them oppression, I shudder for the consequences. But I will not enlarge on this head, trusting that gentlemen are convinced of the importance of the interest, and do not mean to destroy it.

Mr. SPEAKER, we are not to consider molasses in the same light as if it was in the form of rum. We are not to tax a necessary of life in the same manner as we do a pernicious luxury. I am sensible an attempt to draw a critical line of distinction in this case, between what is necessary and what is a luxury, will be attended with some difficulty; but I conceive the distinction sufficient for our present purpose, if it prove molasses to be necessary for the subsistence of the people. No decent family can do without something by way of sweetening; whether this arises from custom, or necessity of nature, is not worth the inquiry; if it is admitted to be a requisite for the support of life, a tax on it will be the same as a tax on bread; it is repugnant to the first principles of policy to lay taxes of this nature in America. What is it that entitles the United States to take rank of all the nations of Europe, but because it is the best country for the poor to live in? If we go on taxing such articles as salt and molasses, these advantages will not long continue to be ours. It may be said, that sugar is also a necessary of life—true; but molasses, inasmuch as it is cheaper, can be more easily obtained, and enters more into the consumption, at least of the poor. They apply it to various uses; it is a substitute for malt, in making beer; and shall it be said that the General Government descends to small beer for its revenue, while strong beer remains duty free? Why shall this difference be made between the common drink of one part of the continent and the other, unless it be with a view to drive the people

to drinking simple water? The gentleman from Virginia contends, that the consumers of eight pounds of sugar pay more than those who use eight pounds of molasses; this may be true, but from the variety of ways in which molasses is used, eight pounds is sooner consumed than six or four pounds of sugar, which makes up the difference. But do gentlemen mean that the poorest and weakest part of the community shall pay as much for what they use as the richer classes? Is this the reward of their toil and industry?

It has been stated as a fact by my colleague, (Mr. GOODHUE,) that Massachusetts will pay more by the impost on molasses than Pennsylvania will on both rum and sugar. The population and strength of these two States are nearly equal; then why should this disproportion be contended for? Is it supposed that Massachusetts will not contribute her proportion on other articles? This, on examination, will be found not to be the case. Gentlemen say the State that exports least, imports least; but, does it not follow, that this State pays according to her ability to pay? If the products of Massachusetts are neither so rich or valuable as those of the Southern States, ought she to pay the impost in the same proportion?

The question is plainly reducible to this: shall we tax a necessary of life in the same proportion as a luxury? Gentlemen will not contend for either the justice or policy of such a measure; but they say the necessity of the case obliges them; they cannot come at the luxury but through the raw material. They say they cannot lay an excise. I ask why not? People may justly think it burdensome to raise all our supplies from impost. Much can be obtained from this source, to be sure, by touching every thing; but I would recommend touching such things as are essential to subsistence lightly, and bring in the excise as a means of obtaining the deficiency; it will be the more certain way of making country rum contribute its proportion. I am not against a duty in this shape; but if the hand of Government is stretched out to oppress the various interests I have enumerated, by an unequal and oppressive tax on the necessities of life, I fear we shall destroy the fond hopes entertained by our constituents, that this Government would ensure their rights, extend their commerce, and protect their manufactures. Mothers will tell their children, when they solicit their daily and accustomed nutriment, that the new laws forbid them the use of it, and they will grow up in a detestation of the hand which proscribes their innocent food and the occupation of their fathers; the language of complaint will circulate universally, and change the favorable opinion now entertained to dislike and clamor.

The House will not suppose we are actuated by local interests in opposing a measure big with such dangerous consequences to the existence of the Union. They will admit we have reason for persisting in our opposition to a high

APRIL 28, 1789.]

Duties on Imports.

[H. OF R.]

duty, and may be inclined to join us in reducing it either to five per cent. or at most to one cent per gallon. If the apprehensions we have expressed shall be realized, let it rest upon the advocates of the present measure; we have done our duty, and it only remains for us to submit to that ruin in which the whole may be involved.

Mr. WADSWORTH wished to show from facts, that fisheries and distilleries were better able to support themselves before the revolution, than they would be under the present arrangements. This appeared from a retrospective view of the trade; the duties paid in the Dutch islands did not amount to more than five or eight stivers the quintal on fish, now they were from twenty to twenty-five. The port charges were one-half less than they are at this time; payments were then made in the most advantageous manner, now we are limited, and spirits is all we can get in exchange; they then took fish of an inferior quality, now we carry to Surinam the best kind. These facts will show gentlemen that the business of the fisheries and distilleries labors under considerable embarrassments. Another great source of profit was found in the African trade; the American vessels had then the liberty of engaging in the slave trade, now they are prohibited. He did not make these observations to prevent a proper duty from being obtained from country rum; he wished it and every kind of distilled spirit to contribute to the public exigencies; but he thought molasses ought not to be taxed in the same proportion; an excise would obtain revenue on principles of justice, and therefore was to be preferred to the present measure.

Mr. SYLVESTER.—I believe the discussion has been so full on this, as well as on former occasions, that there will not be much advantage in extending it, especially as gentlemen differ so widely in opinion. I would, therefore, hope that the question will be taken, and the duty fixed by way of compromise; if it is either too low or too high, it may no doubt have some of the inconveniences mentioned, to avoid which it will perhaps be better to take a middle course.

Mr. MADISON.—The gentleman from Massachusetts (Mr. AMES) has endeavored to prove that no advantage the General Government can give to New England rum will bring it into use; he proves this by the observations I made the other day relative to the effect produced in Virginia, where French brandy is imported in certain vessels free of duty. I shall add nothing more on this point, than stating what is well known to be the case. In Virginia, the habits of the people are so strong in favor of rum, both foreign and domestic, that it requires the greatest exertion to change them; they consume vast quantities of this article. If we lay the duty low, the more of it will come within their power, and the transition from one kind of rum to another is more easy.

It was asked, if the business of distillation was able to support itself under the discouragement

of Government, why would it not do as well when it received encouragement? To this it was replied, that some of the channels of the trade are dried up, and some obstacles now occur in procuring the raw material. But is not the population of the United States increased? And is not the home market daily extending by natural means? What then is to be expected from the encouragement given but an enlarged demand? But after all the embarrassments which the gentleman from Massachusetts has detailed, it does not appear that the number of distilleries are lessened; nor did we hear any thing in reply to the observation I made respecting the use of this article in the fisheries. Can they suffer more under the policy of the United States than they are subjected to by the State of Massachusetts? The hardships which our regulations expose them to are not greater than those of every other part of the continent.

Another argument was used to show, that the State of Massachusetts did not contribute in proportion to other States. It was stated, that where the produce was small, the exports and imports were in the same proportion. Compare the imports of Massachusetts with those of Virginia, and you will find they do not exceed one-third of what the latter amounts to; then, of consequence, under a system of impost, they do not pay in proportion either to their population or representation. The Southern States import many articles which the Eastern States do not; many things which are necessary to the poor, and why may we not, with equal justice, color our reasoning with a description of our sufferings? May not public exclamations be excited, and the children, for want of clothes, be taught to breathe a vindictive spirit? But let me ask gentlemen, why these apprehensions for one part of the Union more than the other? Are the Northern people made of finer clay? Do they respire a clearer air? Do their breasts burn with a more generous ardor for their rights as men, or for their country's happiness and glory? Are they the chosen few? Are all others to be oppressed with accumulated burthens, and they to take their course easy and unrestrained? No; I trust the General Government will equally affect all; it was instituted for the protection of all, and it is expected it will accomplish the end for which it was established. But this can only be done by acts of justice and impartiality, and on this ground I leave the decision to the House.

Mr. FITZSIMONS.—I beg leave to trouble the committee with an observation or two before the question is decided. It has been said by the gentlemen from Massachusetts, that there are 3,000,000 gallons of molasses imported into that State; if so, there is at least 1,000,000 gallons of rum exported, and certainly the gentlemen do not contend that they pay the duty on the rum consumed abroad. The price of molasses is about twenty-ninetieths of a dollar, the duty is about five, and the expense of the distillation may be six more, in all thirty-one

ninetieths, or two shillings and seven pence. Other rum usually costs about three shillings, or three shillings and six pence, to which add one shilling duty, it will bring it, to the consumer, to near four shillings and six pence. A gallon of New England rum can be afforded for almost one-half of the price of West India, and will gentlemen tell us, that this regulation will destroy their distilleries and fisheries? But it will affect the manufacture in other States as well as Massachusetts. The business is carried on to a considerable extent both in New York and Philadelphia, and it is my opinion the duty could be well collected, at least at the latter. Nor are the poor inhabitants of Massachusetts to be taxed otherwise than all others; in Pennsylvania, considerable quantities of molasses are used; though perhaps not quite as much as to the northward, so that the objection of inequality does not lie to such an extent as has been mentioned.

Gentlemen say molasses is a necessary of life, and infer from thence that it ought not to be taxed. If we are not to lay the impost on articles in common use, I fear we shall obtain but little revenue. It is said the fisheries will be ruined, because each fisherman consumes twelve gallons annually. Suppose there are eight men to each of the 480 vessels employed in this business, who use molasses at this rate, what will the whole amount to? \$2,800! And are gentlemen serious when they assert this will ruin our commerce and navigation? It is a tax of not quite three-quarters of a dollar per man. Is it to be imagined any one's proportion can be less, and provide for the wants of Government.

MR. GOODHUE.—It has been mentioned, MR. SPEAKER, that Massachusetts does not import one-third part of the amount which Virginia does. But the gentleman did not offer to prove this, so that I take it to be a mere matter of opinion; for my part, I think she imports equally as much. It was said that two gallons of country rum will cost no more than one of West India. A gallon of molasses is worth a quarter of a dollar before it is distilled; West India rum about two pistareens; molasses was purchased for much less before the war, while the fish and lumber we gave in exchange is fallen, so that the trade is hardly worth carrying on.

I take it, MR. SPEAKER, that we are in an error. They who contend for a high duty have nothing but taxing rum in view, and we want them to consider it as a necessary of life. Certainly the two objects have no kind of connexion. If we lay a moderate duty on the fish, and an excise upon the latter, we shall both have our desires accomplished. We ought to use a considerable share of circumspection in this business, and not give any just cause of uneasiness, especially at the commencement of the Government. Though I do not pretend to say that Massachusetts will not be as quiescent and obedient to our laws as any State in the Union, yet the people will consider a high duty

on molasses as injurious to their interests in the fisheries and navigation, and contrary to wisdom and those principles of justice and policy, which they expect govern the present Legislature. We ought to draw our lesson from experience. You have heard that Great Britain, with all her power, was unable to obtain a duty of three pence a gallon; learn wisdom from her; she reduced it to one penny, and succeeded in the collection. The defiance of her laws was in consequence of the measure running counter to the sentiments of the people.

MR. AMES said, he should be sorry if he had made use of any language to injure any gentleman's feelings. He did not mean to infer that the people of Massachusetts possessed any excellence over their Southern brethren; far from it. He was satisfied that their hearts beat with equal warmth, and their minds contemplated with equal precision; he believed that the most cordial regard subsisted on the part of the citizens of Massachusetts toward their fellow-citizens in other States; he therefore hoped that nothing local would be attributed to him on the occasion.

Was the language of gentlemen to be, let us lay a poll-tax of three-fourths of a dollar on the fishermen, I ask, would the House sit quiet even to hear the proposition? It is not because a tax is light that it is proper. It is supposed that the fishermen must be poor if they are not able to pay this. I contend they are very poor, they are in a sinking state, they carry on their business in despair; but gentlemen will ask us, why then do they not quit the profession? I answer, in the words that are often used in the Eastern country respecting the inhabitants of Cape Cod, they are too poor to live there, and they are too poor to remove. With respect to our distilleries, the gentleman assumes as a fact that they have not declined; but the contrary is true—there is not more than three-fourths of the business done now that used to be, beside the quantity is not only lessened, but the profit on what is sold is also less. Those nations that used to supply us with the raw material are becoming our rivals; even our home market is not secured to us.

Gentlemen who contend for the encouragement of agriculture, should recollect that nature has denied us fertility, but she has placed along our shores an inexhaustible store. To labor on our land seems to be exerting ourselves against nature; our industry is therefore directed to a more productive business, and ought not this to be entitled to equal encouragement with any other. A tax upon molasses has been sufficiently demonstrated to be a tax upon the fisheries; and will gentlemen continue this burthen upon Massachusetts alone, when she pays her full proportion on all other articles, according to her abilities to consume them? Oppression will lead to smuggling, and when once a system of this kind is formed, the persons engaged in it will not stop at molasses alone, they will include every other article in an illicit trade, so

APRIL 29, 1789.]

Duties on Imports.

[H. or R.]

that it is impossible to know the extent of the evil, or provide a remedy. If these facts and arguments are sufficient to produce doubts in gentlemen's minds, they will hesitate in concurring with the committee in this article of the report; for, in cases of uncertainty, I take it to be the wisest way not to proceed in a dubious track.

Mr. GERRY.—After what I said yesterday on this subject, it cannot be necessary for me to go again fully into the argument; what I then advanced has been answered in few cases. I mentioned the difficulties to which a merchant would be subjected who would have to advance the duties; he must sell to a loss, or have a large capital for the purpose; no argument has been urged to show an impropriety in this reasoning. A cargo and outfits of a vessel worth £1000, lawful money, would bring in return 22,000 gallons of molasses; this, as I said yesterday, will pay £396, a duty of near forty per cent. upon the cargo. It was also mentioned, that a large quantity of the article was used by the poor of the seaports; a high duty must necessarily raise the price or lessen the consumption, in which case it will be an additional discouragement to the trade. If the price is raised, the distiller must likewise increase his capital or manufacture less; if so, the demand is again decreased. If it is necessary to destroy the manufacture on account of the injury it does to the morals of the people, the proprietors ought to be indemnified. But if rum is still to be used among us, let us give a preference to our own manufacture. By discouraging the molasses trade, you lessen the demand for fish, which are exported to be exchanged for that article.

It has been said, that a fisherman uses but twelve gallons. I include his family, and make it thirty; for this he has to pay two dollars annually. Is not this a burthen? Gentlemen must own it is.

The gentleman from Virginia refers us to a period before the revolution, when the manufacture supported itself under a duty. The kingdom of Great Britain was at that time in the zenith of her power; she had her board of commerce, her vessels of war, and bodies of troops to support the measure; she sent over an army before she gave it up; at last she was compelled to reduce it. But do gentlemen mean to engage Congress to support its measures in this way. The Parliament had an object to contend for; they did not like their New England colonies to interfere with the business of their West India islands; they wished totally to destroy our distilleries, but could not succeed. This Government has no object of this kind; then shall we give chagrin to those people of whom we exact support? Are we not putting to hazard the affections of the numerous citizens concerned in this business, who have been the warm advocates of the Constitution from an expectation of benefit to their particular interests? And this for the sake of a measure that must defeat itself. The duty will exceed the risk of smug-

gling; the latter, perhaps, not being more than five per cent., the former forty per cent., on the value of the article.

If, therefore, we lay an excise upon the rum, and a small duty on molasses, we shall prevent the necessity of a clandestine trade, obtain a greater revenue, and avoid those injuries which are so justly apprehended to extend to our fisheries and navigation.

Mr. JACKSON.—I have attended through the whole of this debate, but have been unable to discover any new light reflected on the subject. I do not mean to trespass upon the patience of the committee but for a moment. The gentlemen from Massachusetts tell us that fish is an article of their trade, and they sell it for molasses; but if a duty is imposed upon molasses, the business is ruined. Let me ask them, are there not other articles of trade of great moment to the southward? What is to become of the lumber of Georgia? We are obliged to take rum in the West Indies in exchange for our lumber, upon which we pay fifteen cents a gallon duty. The gentlemen are not for reducing this; so I hope they will admit their arguments on this point to be obviated.

One gentleman has thrown out a remark respecting the slaves in the Southern States. I know the subject is not before the House; but I beg just to observe, that however slavery may be condemned in the Eastern States, it is impracticable to cultivate the Southern country without their assistance.

The question on striking out six cents was determined in the negative.

Mr. FITZSIMONS revived his motion which was lost in the committee, that a drawback of three cents per gallon be allowed on all rum distilled in the United States, and which shall be exported without the limits thereof. This was agreed to.

On motion of Mr. MADISON, the clauses of the report respecting the duty to be laid on tonnage, was postponed. And then the House appointed a committee to bring in a bill or bills, pursuant to the report as adopted.

WEDNESDAY, April 29.

The petitions of the citizens of New Jersey, whose names are thereunto subscribed, complaining of the illegality of the election of Representatives to Congress for that State, as referred to in Mr. Ogden's letter of yesterday, were read: Whereupon,

Ordered, That the said petitions be referred to the committee of elections, and that it be an instruction to the said committee, to report a proper mode of investigation and decision thereupon.

The House proceeded to consider the report from the committee of elections, (which lay on the table) on the petition of David Ramsay of the State of South Carolina, suggesting that William Smith, returned a member of this House as elected within that State, was, at the

H. OF R.]

President's Speech.

MAY 4, 1789.

time of his election, ineligible; and the said report being amended to read as followeth:

That in this case it will be sufficient in the first instance, that a committee take such proofs as can be obtained in this city respecting the facts stated in the petition, and report the same to the House—That Mr. Smith be permitted to be present from time to time when such proofs are taken, to examine the witnesses, and to offer counter proofs, which shall also be received by the committee, and reported to the House—That if the proofs so to be reported shall be declared by the House insufficient to verify the material facts stated in the petition, or such other facts as the House shall deem proper to be inquired into, it will then be necessary for the House to direct a further inquiry, and especially the procuring whatever additional testimony may be supposed to be in South Carolina, as the case may require—That all questions arising on the proofs be decided by the House without any previous opinion thereon reported by a committee.

Resolved, That this House doth agree to the said report, and that it be an instruction to the committee of elections to proceed accordingly.

On motion,

Ordered, That a committee be appointed to prepare and report an estimate of the supplies requisite for the present year, and of the net produce of the impost as agreed to by the House, and that Messrs. GERRY, SMITH, (of Maryland) and PARKER, be of the said committee.

The House proceeded to consider the following resolution of the Senate, to wit:

"In Senate, April 27.

"*Resolved*, That after the oath shall have been administered to the President, he, attended by the Vice-President, and the members of the Senate and House of Representatives proceed to St. Paul's Chapel to hear divine service, to be performed by the Chaplains to Congress already appointed." Whereupon,

Resolved, That this House doth concur with the Senate in the said resolution; amended to read as followeth, to wit:

"That after the oath shall have been administered to the President, the Vice-President and members of the Senate, the Speaker and members of the House of Representatives, will accompany him to St. Paul's Chapel to hear divine service performed by the Chaplains of Congress.

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.—Adjourned.

THURSDAY, April 30.

JONATHAN GROUT, from Massachusetts, appeared and took his seat.

This being the day on which the President of the United States was inaugurated no other business, of course, was attempted to. The President's address to both Houses appears in the proceedings of the Senate, page 27.

FRIDAY, May 1.

The SPEAKER laid before the House a copy of the speech of the President of the United

States, to both Houses of Congress, delivered yesterday in the Senate chamber, immediately after his inauguration, which being read,

On motion,

Resolved, That the said speech be committed to a Committee of the whole House.

The House accordingly resolved itself into a Committee of the whole, Mr. PAGE in the chair. And after adopting the following resolution, the committee rose, and reported it to the House, which agreed to it.

Resolved, That it is the opinion of this committee, that an address to the President ought to be prepared, expressing the congratulations of the House of Representatives, on the distinguished proof given him of the affection and confidence of his fellow citizens, by the unanimous suffrage which has appointed him to the high station which he fills; the approbation felt by the House of the patriotic sentiments and enlightened policy recommended by his speech; and assuring him of their disposition to concur in giving effect to every measure which may tend to secure the liberties, promote the harmony, and advance the happiness and prosperity of their country.

Ordered, That a committee to consist of five members be appointed to prepare an address pursuant to the said resolution. The members elected Messrs. MADISON, CLYMER, SHERMAN, GALE, and BENSON.

A motion was made that the House do come to the following resolution:

Resolved, That — per annum, be the compensation to be allowed to the President of the United States, during the term for which he is to be elected.

The said resolution being read, was committed to a Committee of the whole House.

The House then proceeded by ballot to the appointment of a Chaplain to Congress on the part of this House. Upon examining the ballots, it appeared that the Rev. WILLIAM LINX was elected.

SAMUEL LIVERMORE, from New Hampshire, appeared and took his seat.

MONDAY, May 4.

Mr. SMITH presented a petition from the shipwrights of the town of Baltimore, praying the attention of Congress to the increase of American shipping and tonnage, and the passage of a suitable navigation act for its encouragement. Referred to the Committee of the whole on the state of the Union.

Four other petitions were presented.

A petition of Alexander Lewis, of the State of Pennsylvania, was presented to the House, and read, setting forth that he hath discovered and constructed an easy and expeditious method of impelling boats of twenty-five tons burden and under, through the water, against any current or stream however rapid; as also an easy method of raising a sufficient quantity of water

MAY 4, 1789.]

Duties on Tonnage.

[H. OF R.]

twenty feet in height, to turn any mill; and praying that an act may pass to secure to him, his heirs, &c. for the term of twenty-one years, an exclusive right of constructing boats upon his model, in the United States.

Also a petition of Andrew Newell and Seth Clark, of the State of Massachusetts, praying that the proper officer may be authorized to receive and examine their accounts as assistant-commissaries of issues, the lapse of time limited for that purpose by the late Congress notwithstanding.

Also a petition of Sarah Parker, of the State of Massachusetts, praying that some relief may be granted for the support of herself and a large family of children, being the widow and orphans of Lieutenant Colonel Moses Parker, who was wounded and made prisoner by the British troops in the battle of Charlestown, on the 17th of June, 1775, and was afterwards confined in the gaol of Boston, and there died of his wounds in the month of July following.

Also a petition of Martha Walker, of Boston, in the State of Massachusetts, praying that some relief may be granted her, as the distressed widow of Thomas Walker, Esq. late of Boston, who, at the commencement of the late revolution, abandoned a very considerable property in the province of Quebec, and attached himself to the interests and fortunes of the United States.

Ordered, That the said petitions do severally lie on the table.

DUTIES ON TONNAGE.

On motion of Mr. GOODHUE, the House resumed the consideration of the report of the Committee of the whole on the state of the Union.

The clauses relative to the tonnage of vessels, discriminating between foreign nations in alliance and not in alliance with the United States, being under consideration,

Mr. LAWRENCE moved to strike out the discrimination, conceiving that, in the present situation of our country, we ought to be cautious not to express satisfaction or dissatisfaction with respect to the conduct of foreigners; so far as is prudent and right, we ought to preserve an exact neutrality, and act according as circumstances exist. It will be necessary, said he, to consider this subject in two points of view; first, as it respects the necessity of our employing foreigners; and, secondly, how far a regulation that is intended to meet the conduct of those nations not in alliance with us is proper on our part, and what effects will probably flow from the discrimination in this particular. It was stated, when this subject was under consideration before, that the United States had not a sufficient quantity of tonnage to transport its produce. It was said, by the gentleman from Pennsylvania, that its aggregate was but one-third of the tonnage employed for this purpose, if so we are indebted to foreigners for the other two-thirds.

Mr. FITZSIMONS.—I think the gentleman has misunderstood me. I believe I said, and the fact is, that near two-thirds of the tonnage is our own, and but one-third foreign.

Mr. LAWRENCE.—I understood him, as I stated it, that two-thirds belonged to foreigners; however, the greater part of this foreign tonnage is owned in Great Britain. Being indebted to foreigners for their vessels, I ask, is it proper to give a bounty to some of them, especially as it operates as a duty upon the articles exported? Why make the discrimination? It is said we should enable those nations, with whom we have commercial treaties, to participate more largely of our trade; but at present they do not supply us with ships for the purpose of carrying it on. If we cannot get vessels from these favored nations, we must have them from others, or, the alternative is, we must keep our produce to perish in our hands. If the vessels are indispensably necessary, the very circumstance of our wanting them will oblige us to give the freight that is asked. Is it reasonable, when we are under the necessity of having vessels, and are from our circumstances obliged to give foreigners what freight they ask, to expect our own citizens to let theirs for less than what is paid to foreigners? Then the enhanced price of freight will be laid on all whether foreign or domestic. If I am right in these considerations, let me ask gentlemen, will the produce of the country bear burthens of this nature? Every gentleman will determine for himself. The gentlemen from South Carolina and Virginia will determine whether their valuable and important staples, whether even their rice and tobacco, which have no rival in the European markets, will, or possibly can, bear such an excessive burthen? Let the gentlemen from the Middle States determine whether such is the flourishing state of their agriculture, as to enable them to pay a freight of this kind? If the articles to be vended at foreign markets cannot, and I trust gentlemen have already determined in their own minds that they cannot bear the expense, this measure will produce the most mischievous consequences. Mr. SPEAKER, it will discourage agriculture itself; it will destroy the soul of the nation, the ardent industry of the people. If the products of your soil cannot be sent to market they must lay and perish; the planter and husbandman having no stimulus to labor, the prospect must be languid, and a universal cessation of operative industry stretch over all your land.

Let us now proceed to consider the subject in the second point of view, as a regulation to meet the conduct of those nations which have not formed commercial treaties with us. We have no treaty of commerce with either Spain, Portugal, or Great Britain; yet these are nations with whom the United States carry on a very beneficial commerce, as lucrative and useful to our interest as any we have with nations in alliance with us. The proposed discrimina-

H. of R.]

Duties on Tonnage.

[MAY 4, 1789.]

tion does not apply particularly to one nation more than to another; the expression is general, as it respects all powers with whom the United States have or have not commercial treaties. Now, is it to be supposed that they will remain quiet under this unfavorable discrimination? I believe it is more natural to suppose that they will meet you with similar regulations. Spanish and Portuguese vessels will pay the same tonnage as British; now, from them the Eastern States have some ill to apprehend; considerable quantities of fish are exported to the dominions of Portugal and Spain, will they not lay a duty on the fish unfavorable to us, and advantageous to some other Power concerned in that business? This must operate to reduce the profits on American fish—and I believe it is well known to this House, the gentlemen have, on a former occasion, fully stated it to us, that the fisheries are incapable to bear the smallest increase of its burthens without doing an essential injury to the trade. I need not, therefore, amplify on this head.

It is true, Great Britain has not hitherto entered into a commercial treaty with the United States. Perhaps it is not worth the inquiry why this has not been done; but surely if we mean to induce her to form one with us, it is more likely to be brought about by moderation than by a war of commercial regulations. It is well known that that Power stands high in the opinion of all nations; its character for riches and power is justly great, its commercial importance is well known to us. Hence we have but little to expect by a commercial warfare, nor can it be necessary, when the object we aim at can be obtained in a more eligible manner. At least, had we not better try the effect of moderation? It is certainly the advice of prudence to do so; if we find this mean to be unsuccessful, we can certainly apply the other. We always have it in our power, and after being disappointed in temperate measures, we can urge the other more properly.

If we make them our friends it may be advantageous to us; if they become our enemies in commerce, it may have a disagreeable and inconvenient effect. They can restrict us more than we can them; the nation, by being long established, is possessed of capital to bear the loss of a suspension of trade; we are, as it were, the creatures of yesterday, unable to stand such competition, even if we exert ourselves to the utmost. I said before, and repeat it now, that we draw great advantages from our commerce with England, which we run the risk of losing without an object worthy the sacrifice. We are admitted into their ports on terms more favorable than any other nation; articles brought from America do not pay the duty, to which the like are subject from other parts of the globe, which is a source of considerable benefit to our commerce. If my information is right, our vessels are admitted into their ports in the East Indies. This trade is likely to become of the greatest importance to the United States. We

not only have vessels that answer for this branch of commerce, but furnish considerable produce for carrying it on. I am told that there are not less than forty-seven vessels, at this time, on voyages to the countries beyond the Cape of Good Hope. This trade may be materially affected by the policy of the British nation, which has an amazing influence in that quarter of the world. I trust, no friend to the navigation of America will pursue measures destructive to this trade; it is the only one to compensate us for the loss of the West India trade, and yet the regulations of Britain may essentially injure us in that quarter. Upon the whole, I would recommend temper and moderation to the House; if they find these will not, or are not sufficient to produce the effect they contemplate, then take the mode now proposed; it can then be done with more propriety than at present. These are the hasty thoughts which have occurred to my mind against the measure; and I beg gentlemen to believe, that I am actuated only by the purest motives for my country's good, in opposing what I consider as prejudicial to her interest. I wish my country to do those actions which I am certain will reflect honor upon her councils, and bring to her sons that happiness which we are bound by duty to labor for. I would not have her, at her entrance into life, show an intemperate disposition, or do any thing which she might have cause to repent of hereafter.

MR. MADISON.—I conceive, MR. SPEAKER, that we must consider this as a general question, involving these points: How far it is expedient, at this time, to make a discrimination between foreign nations and the United States, for the purpose of promoting and accelerating the improvement of the American navigation? And how far it is expedient to make such a discrimination between foreigners, as may induce them to permit us to extend our own navigation on principles of reciprocity? For I imagine these subjects will be found to be connected. The arguments offered against the measure are founded on a maxim of impolicy. It is stated, that as we have not vessels enough of our own to transport the produce of our country, and as this produce sells low, we ought not to enter into regulations that will increase the price of freight. The plain meaning of which I take to be, let us employ those vessels that will do our business cheapest, making no kind of discrimination whatever. If this argument has weight, it goes against discriminating in favor of our own shipping. I admit, that laying fifty cents on foreign vessels, and but six on our own, is a regulation by which the owners of American shipping will put a considerable part of the difference into their pockets. This, sir, I consider as a sacrifice of interest to policy; the sacrifice is but small, but I should not contend for it, if we did not stand in need of maritime improvements. Were it not for the necessity we are under of having some naval strength, I should be an advocate for throwing wide open

MAY 4, 1789.]

Duties on Tonnage.

[H. OF R.]

the doors of our commerce to all the world, and making no kind of discrimination in favor of our own citizens. But we have maritime dangers to guard against, and we can be secured from them no other way than by having a navy and seamen of our own; these can only be obtained by giving a preference. I admit it is a tax, and a tax upon our produce, but it is a tax we must pay for the national security. I reconcile it to the interest of the United States that this sacrifice should be made; by it we shall be able to provide the means of defence, and by being prepared to repel danger, is the most likely way to avoid it. This tax, therefore, may prevent the horror of a war, and secure to us that respect and attention which we merit.

I am a friend to the navigation of America, and shall always be as ready to go as great lengths in favor of that interest, as any gentleman on this floor. I have it in contemplation to propose a distant time to be fixed, at which these high duties on tonnage shall begin to operate; by which means the interests of that part of the community employing foreign shipping, will be unaffected for the present, and the other part will have time to increase its tonnage, so as to answer for the transportation of the produce of all America.

With relation to the discrimination proposed to be made between foreigners, I think nothing new has been offered now. It has not been denied, and therefore I take it to be tacitly admitted, that the public sentiments are friendly to such a discrimination as is proposed. I do not think it necessary, therefore, to relate particularly some facts, which would have shown that almost all the States in the Union have manifested their opinion on the subject, that a discrimination ought to be made, and ought to operate particularly on Great Britain. A discrimination of this kind first appeared in New Hampshire; the influence of its example expanded the whole extent of the Union, and State after State adopted regulations for the salutary purpose of checking a power that was monopolizing our trade; but finding, from fatiguing experience, that their separate efforts were ineffectual, they united in forming the Government under which we deliberate. I will not say only, that if, in the first act of Congress, we abolish this favorite distinction, we disappoint the expectations of the warmest friends and advocates of the Constitution, but we shall also disappoint the expectations of its enemies, and the people of Britain.

The policy manifested by that nation towards us since the revolution must evince to every thinking mind the necessity of extending our commerce to other channels, and no longer suffer her to regulate and limit us in this particular. The policy of her Parliament has been on the watch to seize every advantage which our weak and unguarded situation exposed; she has bound us in commercial manacles, and very nearly defeated the object of our independence.

We all know there was a time when Britain

showed a disposition to form the treaty we wish for. This resulted from an apprehension that the United States possessed both the power and inclination to do themselves justice. The moment she discovered we had not the power to perform our contracts, her disposition changed. Now, for my part, I can discover no motive for that nation to alter its conduct; if, now that we have the power, we want the inclination. They will persevere in their selfish interest, and narrow policy, to exclude us from a reciprocal share of trade; they will continue the ability to the Executive Magistrate to regulate the intercourse by circumstances as they arise, but ever studious to their own interest alone. The gentleman from New York seems to apprehend, that if we commence commercial hostilities, we shall suffer by reprisals. For my part, I am not afraid of suffering in the contest; her interests can be wounded almost mortally, while ours are invulnerable. She is sensible of this; and the people of America are not unacquainted with the natural advantages possessed over her: if it were necessary, and means of a pacific nature were not immediately successful, America could defend herself. Suppose Great Britain not pleased with our regulation, but disposed to counteract and oppose us with other restrictions, and we proceed to do each other all the injury which commercial prohibitions can produce; which, let me ask, of the parties, are most vulnerable? How we could sustain our wounds I will not say; those who know our country well, will have but little uneasiness on that head. But, though I do not say how we could sustain our wounds, I can point out how we could inflict most deadly ones. If we were to say, that no article should be exported from America to the West Indies, but what went in our own bottoms, we should soon hear a different language from any that has ever been held out to us on the subject of commercial regulations. It may be said, the British West Indies could draw supplies from the mother country; but these would be only precarious; there are always times when they must be dependent upon us, even for the necessary subsistence, to save them from destruction.

Now, let me ask, what article is that we are dependent upon Great Britain for, that is necessary for our subsistence? If it be said there are articles of convenience we must have from her, I beg gentlemen to look round and observe, that those materials for manufactures which she supplies us with, and fabricates in the highest perfection, are to be found in the United States, and, within these few years, we have made rapid advances in manufacturing ourselves. This must eventually lessen the imports from Britain, and her independent situation arises from the flourishing condition of her manufactures and commerce. I have, therefore, no fears of entering into a commercial warfare with that nation; if fears are to be entertained, they lie on the other side. I could go more largely into this subject, and demonstrate clearly that we

have infinite advantages over her. Even at this moment we hear the cry of distress from one part of her dominions, which can only be relieved by the resources they have in this country. But I will not take up the time of the committee longer on this subject, nor dilate upon the nature and extent of the direct trade carried on between foreigners and us, and the circuitous one through Great Britain, from which she derives great advantages; nor show the comparative motives we have for making a discrimination between her and other foreign nations. Whale oil is prohibited in Britain; at least subjected to a duty amounting to a prohibition, but it is admitted into France. I need not remark the value which we ought to set upon this part of our commerce; fisheries are, perhaps, the best nurseries for seamen of any employment whatever. Rice is also an article received by them, and enters considerably into the consumption of the people; these articles are making their way through that country, and will open a considerable vent for the surplus that we have. In this point of view, it is important not to take any steps that would check that spirit which seems disposed to favor the commerce and interests of America. Tobacco is also consumed in considerable quantities in France; undoubtedly it is our interest that a direct trade should be carried on with that kingdom in this article. Eighty or ninety thousand hogsheads of this article have been shipped to Great Britain, of which scarcely 15,000 are consumed there; the remainder is sent off to other countries; 20,000 hogsheads of this very tobacco is consumed in France. It is not the fault of our merchants that this supply does not go direct to that kingdom, as good policy would dictate. I need not repeat the advantages to be derived from a direct intercourse with those nations, whose inhabitants consume the staples of our country. I conceive, where no special reason to the contrary exists, we may consider trade in its natural channel when the articles are carried immediately to the consumer. Considering our trade in this point of view, a great part of ours is extremely diverted from the course it ought to pursue; but a small proportion of it flows in any other than in that between Great Britain and us; our policy, therefore, as I stated on a former occasion, ought to be calculated to give it that impulse which nature directs. I wish that any general principle would permit us to make a distinction between Spain and Britain, but I do not know there is such a general principle—there is none in the possession of this House to avail ourselves of. We must consider Spain as a nation not having formed a treaty of commerce with us. If they are disposed to make such a treaty, they will only be subjected for a short time to the inconvenience which the proposed measure will inflict. Admitting that the duty on tonnage is not very agreeable to every part of the Union, yet their momentary inconvenience must give way to considerations of greater importance. I

have no reason to suppose, that the sense of the House will lead us to disagree to the measure. I have made these remarks, not because I thought they would influence the vote of any gentleman, but because I thought it decent to show the principles upon which our determination is founded. I trust there will be a majority, and a large majority too, in favor of the proposed discrimination; indeed, the question stands predetermined; we have made a discrimination on the article of spirits upon the same principle; it would be a violation of propriety, therefore, to suppose a contrary decision in this case.

Mr. FITZSIMONS.—I shall not speak as to the policy of the measure; I mean to confine myself to stating a few facts, as I did when the subject was before the committee of the whole House. The gentleman from New York (Mr. LAWRENCE) has said, that I stated the foreign tonnage as two-thirds of the whole employed by the United States. It is possible that I made this mistake in my language, but the truth is, that one-third only is foreign, and of this a very considerable proportion is British. The state of the tonnage in Massachusetts is nearly all American, in New York, 55,000 tons of the same, and 30,000 foreign; nearly the same proportion is employed at Philadelphia. Maryland employs about three American to two foreign; in Virginia and South Carolina, they are nearly equal; in Georgia, the difference is two-thirds foreign, and one-third American; so that, upon the whole, there is little more than one-third foreign. This statement very considerably lessens our dependence upon foreign nations from what has been imagined by the gentleman who has spoken in opposition; nor does it follow that we shall pay the freight upon all our exports in proportion as we lay the duty. If we take a view of the trade of the United States, we shall discover that it will not necessarily be the consequence.

What are the articles Great Britain takes of America? A great proportion of the lumber used in the West Indies, indeed I may say the whole—a great proportion of the lumber used within that kingdom. The West Indies cannot draw her supplies elsewhere; if you were, therefore, to lay a duty of forty per cent. upon the freight, the consumers in those islands must pay it. The same observation holds good as it respects our intercourse with Britain; the articles she takes from us cannot be supplied from any other country. Experience has proved, that every one of these articles has been advanced in price in the proportion as it has been encumbered, and the high freight only serves as a pretext to increase the rate to the consumer. It is not just, therefore, to say that the articles are of less value in our country, for in instances of this kind the burthen must fall upon those who use them. It is not the case with the rice of South Carolina, nor with the tobacco of Virginia, nor never can be, unless there is a competition with other countries in the sale of these

MAY 4, 1789.]

Duties on Tonnage.

[H. OF R.]

articles. Flax is a very necessary article in one of their most important manufactures; the seed of this plant is sedulously sought for in America because it is superior to their own, or because it is inconvenient to raise it; but if they find it necessary, will they not be obliged to pay the price when increased by a small tonnage duty? Will gentlemen contend against me, that the citizens of the United States do not pay the taxes and duties laid by Britain on the articles we consume? They certainly will not do this. Why, then, do they contend that we are to bear the duty of tonnage paid on exportation? The advantages Great Britain derives from our commerce, besides its absolute necessity to her existence, are considerations too important for her to sacrifice for a paltry regulation of fifteen pence a ton upon her shipping, and this is all that the proposed discrimination subjects her to. You have heard it declared, that the number of British vessels are not lessened, although there is a duty of six shillings and eight pence per ton in some of the States. They still find it their interest to pursue our beneficial commerce. I admit that a tax on tonnage increases the freight, but it is equally certain that the tax, in almost every instance, falls upon the consumer.

Our commerce with Spain and Portugal is beneficial, and it may be proper to consider what effects our regulations are likely to produce, as they respect those powers; but with England we risk nothing. As long as they find it their interest to continue the American trade, there is no fear of their discontinuing it, and this will be the case as long as we consume her manufactures, and give her in return our produce, which enables her to extend her commerce to other parts of the world.

Mr. WADSWORTH.—I am opposed to all discrimination between foreign nations, unless I can discover some solid reason for the measure. We enjoy equal advantages, with respect to our trade, from those nations that we are not in alliance with, as from those to whom we are linked by commercial treaty. Why, therefore, shall we give a preference that may be odious, and draw injurious restrictions upon our commerce? It is to Great Britain that we are indebted for a market for our lumber, our pot and pearl ash, our naval stores, rice, and tobacco; in short, they take every thing we have to dispose of but our fish and oil. But our fish finds a better market in countries with whom the United States have no alliance, than in those of Powers in commercial treaty with us; the price is better, and we are better paid. But gentlemen are mistaken when they say that Britain cannot draw her supplies from another quarter. We have several competitors in her market for various articles, and it is the preference they give us in the duties and charges, that renders it unsuccessful on the part of our opponents. It is said that flaxseed cannot be obtained elsewhere; yet gentlemen must recollect that very small supplies of this article were furnished by Ame-

rica during the war. Britain drew the deficiency from Holland. This proves that their dependence is not exclusively upon us for flaxseed. Is it good policy to deprive ourselves of the advantages which we possess, without a probability of acquiring greater? There is very little prospect of success in a commercial struggle with Britain, and I do not see any great benefits that arise from the trade of our allies that will warrant the sacrifice. It appears to me, that, by making the discrimination now in contemplation, we pay a compliment that is of very little consequence in the estimation of the nation in whose favor it is intended. They employ a very inconsiderable tonnage in the American trade, and those few vessels are all that can receive a profit from the regulations. Besides, it is admitted that the United States have not vessels enough of their own for the transportation of their produce; can it be good policy, then, to destroy a competition among foreigners for the remainder of our carrying trade?

If gentlemen will show me the advantages arising from our commercial connexions where we are bound by treaty, I will join them in a measure which is likely to produce similar effects on other nations; but, when I see no one interest that will be promoted by it, I feel diffident lest we do a substantial injury to the cause we attempt to support.

Mr. CLYMER appealed to the public acts of America for the sentiments of the people respecting a discrimination, from which it would appear that Britain was looked upon in commerce as a hostile nation. But it was the wish of all to increase the intercourse between France and the United States. The little direct trade carried on between that kingdom and America is favorable to us; that to Great Britain the contrary. We receive money for what we carry to France, with which our mercantile operations are increased: we are not paid with rum, as in our British West India trade. This is a fact of notoriety; it has become a subject of complaint in that country, that we take no returns in manufactures from her, as we do from a neighboring nation. These advantages, therefore, backed by the voice of the people, warrant a preference of the nature of what is now intended.

Mr. PAGE was sorry to trouble the House upon this occasion after so much had been said, and he would not have done it, if it had not been that he conceived it proper to notice some remarks which had escaped the gentleman who argued in opposition to the proposed measure. It had been said, that America obtained greater advantages from nations not in commercial alliance with us, than from those that were. He would leave this point to be settled by the gentlemen who had heard the facts stated on both sides, and turn to consider it in another point of view. The committee, when they had this report under consideration, endeavored to adopt a successful mode of raising a revenue. If a duty on tonnage will have this effect, we ought

H. of R.]

Duties on Tonnage.

[MAY 4, 1789.]

to agree to it; for to what other subject of revenue can we go that will prove equally productive? It is therefore requisite that we lay this kind of tax; in so doing, if it is necessary to discriminate between our own citizens and foreigners, why is it not likewise proper to discriminate between our commercial friends and commercial enemies? If the policy is good in one case, it is so in the other. We must not only encourage our friends to continue in alliance, but hold out an advantage to those of whom we want a reciprocity. It has always been the practice of that very nation to discriminate who it is suspected will take umbrage at our doing it. Has not Britain laid heavy duties upon the wines of France, and lower on those of Portugal, in order to encourage the trade and commerce of their ally. They have, by this means, made France agree to receive their manufactures. It is the practice of wise nations to adopt regulations of this nature; and most undoubtedly, if any nation on earth has a right to expect a favorable regulation on our side, it is the one that, I may say, has given us the power to deliberate. I conceive such a regulation wise, just, and politic; the contrary policy I view as pusillanimous, founded in folly, injustice, and impolicy. For my part, I wish for greater discrimination than is now proposed. Instead of resting it here, I should have consented to have gone much further. I believe the price of freight has not risen in Virginia, though the British vessels are subjected to a tonnage duty of double the amount of what is now proposed. Something of this nature might give the merchants of America such maritime advantages, that our commerce would shortly be placed on a respectable footing. We might then expect a beneficial treaty to be formed with Britain; and it is my opinion, that if a decisive discrimination was made, we should scarcely pass the act before offers of that kind would be made.

MR. JACKSON.—I am in favor of a discrimination, but I like the idea thrown out by the gentleman from Virginia, (MR. MADISON,) that the high duty commence its operation at a distant day; but I am not for a very great discrimination. Some gentlemen, who advocate this side of the question, have contended that Great Britain is obliged to receive certain articles from America; and, therefore, if we lay heavy duties upon the transportation, they will fall upon the consumer. Now I must beg leave to mention a fact or two in point. In the State of Georgia we have a pretty high tonnage duty, but our produce falls in price. The rice, about two or three years ago, sold for thirteen or fourteen shillings; now it is difficult to procure nine shillings per hundred weight. This proves that these articles are not so necessary to the British subjects as to induce them to give what we ask; therefore the gentlemen's arguments go too far, when they intend to prove that nation altogether dependent upon us. The prices for the Southern staples are generally lower than what they were before the war; and I am very apprehen-

sive that a high tonnage will reduce them still lower. The tonnage of the State of Georgia is about 20,000 tons, of this, two-thirds are British. If the duty is laid so high as to prevent them from coming amongst us to transport our produce, what is to become of our planters? It is said that this measure will raise us into considerable maritime importance, by making a favorable discrimination. I admit that this may eventually take place, with prudent encouragement; but if, before we have got shipping enough of our own, we discard foreigners, we must injure the husbandman; the profits of his labor must perish upon his hands, for want of the means requisite to convey them to market.

If the tonnage duty is commenced at a distant day I shall favor the sum proposed; but if it is immediately to take place, I should think twenty or twenty-five cents a ton sufficient, and even this ought not to take place before December, 1790. Though I am a friend to discrimination, yet I am opposed to a high duty, until we have vessels enough of our own to answer the purposes of domestic navigation and foreign transportation.

MR. LAWRENCE.—I do not think the regulation in contemplation will embrace the object gentlemen have in view. The discrimination between our own vessels and foreigners is intended to increase the quantity of American tonnage. The discrimination between foreigners is also intended to increase the tonnage of our allies. But will this proposed measure have such effect? I think, for my part, that a preference of twenty cents per ton will not draw vessels belonging to those nations into this branch of commerce, so as to answer the purpose of supplying the deficiency in our means of transportation. If the preference is so small as not to induce their vessels to navigate for us, the means are not proportioned to the end; but if the regulation is to induce Great Britain to grant us reciprocity in commerce, and our trade is of such high importance to that nation, let us adopt measures more effectual than this small discrimination; let us say, that they shall receive no supplies from us but what are conveyed to them in our own bottoms. The gentleman from Pennsylvania, (MR. FITZSIMONS,) says, it is not true that the freight will reduce the price to the farmer. He supposes the articles of tobacco and rice necessities, and whatever price they are held at must be given for them, and then the whole expense will fall upon the consumer. This proves too much, and consequently proves nothing. Suppose we lay twenty shillings per ton on vessels, it must enter into the price of tobacco and rice, and the articles must still be purchased; yet, if the price is increased, the demand becomes limited. A man does not consume so much when the price of an article is high, as he does when it is moderate; consequently, if the planter was to get his usual profit on what was sold, he would lose on all that remained on hand, owing to the limitation of the demand. The

MAY 4, 1789.]

Duties on Tonnage.

[H. OF R.]

same reasoning holds good with respect to flaxseed, lumber, and potash; at the same time it will be well to consider, whether the increase on the freight will not be such as to prevent our sending them altogether.

The oil at one time imported into France is restricted at another. I am willing to enter into stipulations with that nation for the admission of the article; but, until something is done by treaty on this head, there is no security in the temporary regulations made by that or any other nation. I would not be understood to be against discriminating between ourselves and foreigners. No, sir, I admit the policy and propriety of such a measure, but I contend we ought not to discriminate between foreign nations. As for the claim of gratitude which has been urged, I think it but of small weight. If we are bound, I presume it is by treaty, and whatever we are so bound to do, I cheerfully concur in; but, if we are free, it never can be deemed want of gratitude to decline doing what will be injurious to our interests; it is what a nation has a right to expect from another. The gentlemen say they are sorry to discriminate between Spain and Portugal; they wish to favor these nations: the former has some claim also upon our gratitude; but it is matter of certainty that those nations will receive an injury by the proposed policy, and it may draw down upon that part of our commerce very inconvenient and injurious restrictions. But, say the gentlemen, no general principle can be adopted, and, at the same time, permit us to accept them. If this be the case, why pursue measures which have this fatal tendency, without any certainty of advantage from another quarter?

Great Britain would not enter into a commercial treaty with us, because she saw we had not power to perform our engagements. If this was the true reason for her declining to form a treaty, there is a high degree of probability, that now the objection is removed, she may evince a disposition to be bound to us by a link of that nature which we wish. Is it prudent, then, at this time, to defeat the measure we aim at by a paltry regulation aimed against her of fifteen pence per ton? I conceive it is not, and hope the House will reject it.

MR. MADISON.—I believe a few considerations that lie in a small compass, will be sufficient to guide us in our determination on the present occasion. Although it is an old maxim, that trade is best left to regulate itself; yet circumstances may and do occur to require legislative interference. The principles which have actuated us in laying duties on several articles of impost are founded upon this necessity. Our commerce with France and Great Britain may be considered in the same point of view, the one is depressed beyond what its nature deserves, and the other enhanced beyond its due proportion. The justice of this remark is too flagrant to be disputed. A considerable quantity of our produce goes through Great Britain into France; does not this demonstrate that our commerce

flows in an improper channel, and calls loudly on us to give it a different direction? I think the good policy of fostering the trade of France cannot be doubted; we must make the other nation feel our power to induce her to grant us reciprocal advantages. Gentlemen will not contend, that we ought to allow her every thing, and trust to her gratitude. They say it is a slender obligation; for my part, I have no hopes from that source; because I have all along observed her seizing to herself every advantage in commerce that presented to her view by all the ingenuity she could devise. Gentlemen admit, that we are now in a different situation from what we were when she declined entering into treaty with us, and they expect she will now come forward with generous offers. But permit me to ask gentlemen, if it is not the same thing whether we want the power or the will to compel them to do us commercial justice? Yet do not the gentlemen's arguments tend to create an opinion that we have not the power? They caution us to be afraid of reprisals. If she really believes us to be afraid on this head, will she not act in the manner she has hitherto done when we really did not possess the power? When I hear remarks of this nature, the more convinced I am of the necessity there is of making a discrimination to convince her of our power, and make her see that her interest is concerned in being on terms of friendship with us; it will be the most likely way to obtain from her the advantages we contend for. I have no doubt in my own mind but that it will have this effect. Can it be expected that she will shut her ports against us, when she re-exports the greater part of what she takes from us, for instance tobacco? Will she refuse to receive this article, when she does not consume the tenth part of what she carries from the United States? Will she shut her ports to the raw materials necessary for her manufactures? I think her dependence, as a commercial and manufacturing nation, is so absolutely upon us, that it gives a moral certainty that her restrictions will not, for her own sake, be prejudicial to our trade.

Gentlemen who fear any ill effect upon the agricultural interests, apprehend it from a supposition that the discrimination will be high. Now I profess, it is not so much for a high duty as for the policy of the measure that I advocate it. I shall be content with a small preference, and surely no doubt can be entertained of its justice or propriety.

MR. SHERMAN was opposed to the discrimination. In his opinion, the great principle in making treaties with foreign Powers, was to obtain equal and reciprocal advantages to what were granted, and in all our measures to gain this object the principle ought to be held in view. If the business before the House was examined, it would appear to be rather founded on principles of resentment, because the nation of Great Britain has neglected or declined forming a commercial treaty with us. He did not know that she discriminates between these

H. OF R.]

Answer to the President.

[MAY 5, 1789.]

States and other Powers who are not in treaty with her, and therefore did not call upon us for retaliation; if we are treated in the same manner as those nations we have no right to complain. He was not opposed to particular regulations to obtain the object which the friends of the measure had in view; but he did not like this mode of doing it, because he feared it would injure the interest of the United States.

Before the House adjourned, Mr. MADISON gave notice, that he intended to bring on the subject of amendments to the constitution, on the 4th Monday of this month.

TUESDAY, May 5.

Mr. BENSON, from the committee appointed to consider of, and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the Constitution, and to confer with a committee of the Senate appointed for the same purpose, reported as followeth:

"That it is not proper to annex any style or title to the respective styles or titles of office expressed in the Constitution."

And the said report being twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

Mr. MADISON, from the committee appointed to prepare an address on the part of this House to the President of the United States, in answer to his speech to both Houses of Congress, reported as followeth:

The Address of the House of Representatives to George Washington, President of the United States.

SIR: The Representatives of the People of the United States present their congratulations on the event by which your fellow-citizens have attested the pre-eminence of your merit. You have long held the first place in their esteem. You have often received tokens of their affection. You now possess the only proof that remained of their gratitude for your services, of their reverence for your wisdom, and of their confidence in your virtues. You enjoy the highest, because the truest honor, of being the First Magistrate, by the unanimous choice of the freest people on the face of the earth.

We well know the anxieties with which you must have obeyed a summons from the repose reserved for your declining years, into public scenes, of which you had taken your leave for ever. But the obedience was due to the occasion. It is already applauded by the universal joy which welcomes you to your station. And we cannot doubt that it will be rewarded with all the satisfaction with which an ardent love for your fellow citizens must review successful efforts to promote their happiness.

This anticipation is not justified merely by the past experience of your signal services. It is particularly suggested by the pious impressions under which you mean to commence your administration, and the enlightened maxims by which you mean to conduct it. We feel with you the strongest obligations to adore the invisible hand which has led the American peo-

ple through so many difficulties, to cherish a conscientious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposit in a system of legislation founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.

The question arising out of the fifth article of the Constitution will receive all the attention demanded by its importance; and will, we trust, be decided, under the influence of all the considerations to which you allude.

In forming the pecuniary provisions for the Executive Department, we shall not lose sight of a wish resulting from motives which give it a peculiar claim to our regard. Your resolution, in a moment critical to the liberties of your country, to renounce all personal emolument, was among the many presages of your patriotic services, which have been amply fulfilled; and your scrupulous adherence now to the law then imposed on yourself, cannot fail to demonstrate the purity, whilst it increases the lustre of a character which has so many titles to admiration.

Such are the sentiments which we have thought fit to address to you. They flow from our own hearts, and we verily believe that, among the millions we represent, there is not a virtuous citizen whose heart will disown them.

All that remains is, that we join in your fervent supplications for the blessings of heaven on our country; and that we add our own for the choicest of these blessings on the most beloved of our citizens.

Said address was committed to a Committee of the whole; and the House immediately resolved itself into a committee, Mr. PAGE in the chair. The committee proposing no amendment thereto, rose and reported the address, and the House agreed to it, and resolved that the Speaker, attended by the members of this House, do present the said address to the President.

Ordered, That MESSRS. SINNICKSON, COLES, and SMITH, (of South Carolina,) be a committee to wait on the President, to know when it will be convenient for him to receive the same.

Mr. CLYMER, from the committee appointed for the purpose, reported a bill for laying a duty on goods, wares, and merchandise, imported into the United States, which passed its first reading.

Mr. BLAND presented to the House the following application from the Legislature of Virginia, to wit:

VIRGINIA, to wit:

IN GENERAL ASSEMBLY, NOV. 14, 1788.

Resolved, That an application be made in the name and on behalf of the Legislature of this Commonwealth to the Congress of the United States, in the words following, to wit:

"The good People of this Commonwealth, in Convention assembled, having ratified the Constitution submitted to their consideration, this Legislature has, in conformity to that act, and the resolutions of the United States in Congress assembled, to them transmitted, thought proper to make the arrangements that were necessary for carrying it into effect. Having thus shown themselves obedient to the voice of their constituents, all America will find that, so far as

MAY 5, 1789.]

Application of Virginia.

[H. OF R.]

it depended on them, that plan of Government will be carried into immediate operation.

"But the sense of the People of Virginia would be but in part complied with, and but little regarded, if we went no farther. In the very moment of adoption, and coeval with the ratification of the new plan of Government, the general voice of the Convention of this State pointed to objects no less interesting to the People we represent, and equally entitled to our attention. At the same time that, from motives of affection to our sister States, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs that they dreaded its operation under the present form.

"In acceding to the Government under this impression, painful must have been the prospect, had they not derived consolation from a full expectation of its imperfections being speedily amended. In this resource, therefore, they placed their confidence, a confidence that will continue to support them, whilst they have reason to believe that they have not calculated upon it in vain.

"In making known to you the objections of the People of this Commonwealth to the new plan of Government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen. For their sense on this subject, we beg leave to refer you to the proceedings of their late Convention, and the sense of the House of Delegates, as expressed in their resolutions of the thirtieth day of October, one thousand seven hundred and eighty-eight.

"We think proper, however, to declare, that, in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations in different ages, so they will never be removed, until the cause itself shall cease to exist. The sooner, therefore, the public apprehensions are quieted, and the Government is possessed of the confidence of the People, the more salutary will be its operations, and the longer its duration.

"The cause of amendments we consider as a common cause; and, since concessions have been made from political motives, which, we conceive, may endanger the Republic, we trust that a commendable zeal will be shown for obtaining those provisions, which experience has taught us are necessary to secure from danger the unalienable rights of human nature.

"The anxiety with which our countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional discussion and recommendation, if, indeed, they should ever agree to any change, would, we fear, be less certain of success. Happily for their wishes, the Constitution hath presented an alternative, by admitting the submission to a convention of the States. To this, therefore, we resort as the source from whence they are to derive relief from their present apprehensions.

"We do, therefore, in behalf of our constituents, in the most earnest and solemn manner, make this application to Congress, that a convention be immediately called, of deputies from the several States, with full power to take into their consideration the defects of this constitution that have been suggested by the State Conventions, and report such amendments thereto as they shall find best suited to pro-

mote our common interests, and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

"JOHN JONES, *Speaker Senate.*

"THOMAS MATHEWS, *Speaker Ho. Del.*"

After the reading of this application,

Mr. BLAND moved to refer it to the Committee of the whole on the state of the Union.

Mr. BOUDINOT.—According to the terms of the Constitution, the business cannot be taken up until a certain number of States have concurred in similar applications; certainly the House is disposed to pay a proper attention to the application of so respectable a State as Virginia, but if it is a business which we cannot interfere with in a constitutional manner, we had better let it remain on the files of the House until the proper number of applications come forward.

Mr. BLAND thought there could be no impropriety in referring any subject to a committee, but surely this deserved the serious and solemn consideration of Congress. He hoped no gentleman would oppose the compliment of referring it to a Committee of the whole; beside, it would be a guide to the deliberations of the committee on the subject of amendments, which would shortly come before the House.

Mr. MADISON said, he had no doubt but the House was inclined to treat the present application with respect, but he doubted the propriety of committing it, because it would seem to imply that the House had a right to deliberate upon the subject. This he believed was not the case until two-thirds of the State Legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. "The Congress, wherever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments." From hence it must appear, that Congress have no deliberative power on this occasion. The most respectful and constitutional mode of performing our duty will be, to let it be entered on the minutes, and remain upon the files of the House until similar applications come to hand from two-thirds of the States.

Mr. BOUDINOT hoped the gentleman who desired the commitment of the application would not suppose him wanting in respect to the State of Virginia. He entertained the most profound respect for her—but it was on a principle of respect to order and propriety that he opposed the commitment; enough had been said to convince gentlemen that it was improper to commit—for what purpose can it be done? what can the committee report? The application is to call a new convention. Now, in this case, there is nothing left for us to do, but to call one when two-thirds of the State Legislatures ap-

ply for that purpose. He hoped the gentleman would withdraw his motion for commitment.

Mr. BLAND.—The application now before the committee contains a number of reasons why it is necessary to call a convention. By the fifth article of the Constitution, Congress are obliged to order this convention when two-thirds of the Legislatures apply for it; but how can these reasons be properly weighed, unless it be done in committee? Therefore, I hope the House will agree to refer it.

Mr. HUNTINGTON thought it proper to let the application remain on the table, it can be called up with others when enough are presented to make two-thirds of the whole States. There would be an evident impropriety in committing, because it would argue a right in the House to deliberate, and, consequently, a power to prostrate the measure applied for.

Mr. TUCKER thought it not right to disregard the application of any State, and inferred, that the House had a right to consider every application that was made; if two-thirds had not applied, the subject might be taken into consideration, but if two-thirds had applied, it precluded deliberation on the part of the House. He hoped the present application would be properly noticed.

Mr. GERRY.—The gentleman from Virginia (Mr. MADISON) told us yesterday, that he meant to move the consideration of amendments on the fourth Monday of this month; he did not make such motion then, and may be prevented by accident, or some other cause, from carrying his intention into execution when the time he mentioned shall arrive. I think the subject however is introduced to the House, and, perhaps, it may consist with order to let the present application lie on the table until the business is taken up generally.

Mr. PAGE thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object, and let the original be deposited in the archives of Congress. He deemed this the proper mode of disposing of it, and what is in itself proper can never be construed into disrespect.

Mr. BLAND acquiesced in this disposal of the application. Whereupon, it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress.

DUTIES ON TONNAGE.

The House then resumed the consideration of the Report of the Committee of the whole on the state of the Union, in relation to the duty on tonnage.

Mr. JACKSON (from Georgia) moved to lower the tonnage duty from thirty cents, as it stood in the report of the committee on ships of nations in alliance, and to insert twenty cents, with a view of reducing the tonnage on the vessels of Powers not in alliance. In laying a higher duty on foreign tonnage than on our own, I presume, said he, the Legislature have

three things in contemplation: first, The encouragement of American shipping; 2ndly, Raising a Revenue; and, 3dly, The support of light-houses and beacons for the purposes of navigation. Now, for the first object, namely, the encouragement of American shipping, I judge twenty cents will be sufficient, the duty on our own being only six cents; but if twenty cents are laid in this case, I conclude that a higher rate will be imposed upon the vessels of nations not in alliance. As these form the principal part of the foreign navigation, the duty will be adequate to the end proposed. I take it, the idea of revenue from this source is not much relied upon by the House; and surely twenty cents is enough to answer all the purposes of erecting and supporting the necessary light-houses. On a calculation of what will be paid in Georgia, I find a sufficiency for these purposes; and I make no doubt but enough will be collected in every State from this duty. The tonnage employed in Georgia is about twenty thousand tons, fourteen thousand tons are foreign; the duty on this quantity will amount to £466 13s. 4d. Georgia currency. I do not take in the six cents upon American vessels, yet this sum appears to be as much as can possibly be wanted for the purpose of improving our navigation.

When we begin a new system, we ought to act with moderation; the necessity and propriety of every measure ought to appear evident to our constituents, to prevent clamor and complaint. I need not insist upon the truth of this observation by offering arguments in its support. Gentlemen see we are scarcely warm in our seats, before applications are made for amendments to the Constitution; the people are afraid that Congress will exercise their power to oppress them. If we shackle the commerce of America by heavy imposition, we shall rivet them in their distrust. The question before the committee appears to me to be, whether we shall draw in, by tender means, the States that are now out of the Union, or deter them from joining us, by holding out the iron hand of tyranny and oppression. I am for the former, as the most likely way of perpetuating the federal Government. North Carolina will be materially affected by a high tonnage; her vessels in the lumber trade will be considerably injured by the regulation; she will discover this, and examine the advantages and disadvantages of entering into the Union. If the disadvantages preponderate, it may be the cause of her throwing herself into the arms of Britain; her peculiar situation will enable her to injure the trade of both South Carolina and Georgia. The disadvantages of a high tonnage duty on foreign vessels are not so sensibly felt by the Northern States; they have nearly vessels enough of their own to carry on all their trade, consequently the loss sustained by them will be but small; but the Southern States employ mostly foreign shipping, and unless their produce is carried by them to market it will perish. At this mo-

MAY 5, 1789.]

Duties on Tonnage.

[H. OF R.]

ment there are not only rice and lumber, but five thousand hogsheads of tobacco lying in the warehouses for want of shipping. Gentlemen may talk of raising a maritime force, and increasing the number of our commercial vessels; but what is to be done in the mean time with the products of agriculture? They must be laid up to rot in warehouses; they must wait till a future day before they can be disposed of; the poor planters are to suffer this inconvenience for a few years, to increase the building of ships. Persecuted as these men are by British tyrants, in the shape of creditors, we are about to impel them to certain destruction. Every artifice was used, every net was spread, to involve them in this dilemma. Courtied by luxury, which exposed all its charms to impassion their souls, and prompted on by the flattering terms of obtaining a gratification of their wishes by a long credit, these men have put themselves into the power of commercial harpies. At length, roused from their lethargy, they have made exertions to disentangle themselves. The sale of their produce has hitherto enabled them to avoid the most dreadful evils; but take this out of their power, and there remains nothing to save them from the loathsome dungeon, and their families from perishing for want of the common necessities of life. Then may the people of the State of Georgia have reason to repent the prompt and decided part they have taken in this second revolution. Disappointed in that relief which they expected from a general and efficient government, they will only have to seek obscurity and a wretched existence in some remote corner of the land, despairing of ever obtaining hereafter the wonted comforts and enjoyments of life.

I shall just mention to the House one observation more, to show that the produce of the Southern States cannot bear a high tonnage duty. The value of rice, tobacco, and indigo has fallen so much in foreign markets, that they are no longer worth the exportation. The merchants complain that they lose by those remittances; and they have now got into the practice of sending off specie; forty thousand dollars have been sent in one vessel. This is a daily practice, and we shall shortly have no specie left to pay our debts. The difficulty will be increased, as no money will remain to pay for the duties imposed on the articles imported. I hope the government will not insist upon our walking before we are able to creep, or compel us to make bricks without straw. These are my sentiments on the present question; if they have weight, the House will agree with me in reducing the duty; but if the House persist in continuing the high rates agreed to in committee, I shall content myself with having done my duty by warning them of the danger.

Mr. AMES.—I hope the reduction moved for by the gentleman who has just sat down will not be agreed to; for I trust the House is not satisfied with the reasons offered in its support.

A great deal has been now said respecting the jealousy entertained of the advantages given by this preference to some States; a great deal was also said before the committee adopted the measure. I do not think this doctrine of jealousy is natural to us. I know it has been cultivated by the British, and disseminated through the United States; they had their particular views in exciting such ideas; but I do not believe, that because we have various we have opposite interests. Upon examination there will be found but few of our interests that clash with each other so much as to admit a well grounded jealousy. Nature has so arranged our circumstances, that the people of the several States pursue various employments which support each other. If one end of the continent is employed in manufactures and commerce, the other is attentive to agriculture; so far are they, therefore, from being rivals, that, both in a natural and political sense, they mutually are necessary and beneficial to each other's interests. I wish gentlemen, before they insist upon this jealousy, would point out the causes of its existence. So far from this being the case, I believe the individual interest of each part is compatible with the general interest; and that the public opinion is the same, is clearly demonstrated by the attachment professed by every part to remain in union—it is acknowledged, that on this principle our existence as a nation depends.

This being the case, I do not listen with any great degree of concern to arguments founded on that cause. So far from surveying the affluence or ease of my Southern brethren with the jaundiced eye of jealousy, I contemplate their prosperity with ineffable satisfaction. I look with an equal eye upon the success of every State through the whole extent of United America. I wish their interests to be equally consulted; and, if I may judge of the feelings of the people, by those of their representatives on this floor, I may venture to say, there was never less reason to apprehend discord or envy than at this time. I believe the fact is so, because I feel it. I appeal with confidence to the gentlemen round me, whether they have not found the disposition of those who were suspected most to favor navigation, ready to concede what was asked for the encouragement of every other interest? Whether a like conciliatory conduct has not been observed by the advocates of manufactures? I ask gentlemen, whether the language they have heard from the several parts of this House has not been much more congenial to their sentiments than they expected, and the measures pursued more coincident to their feelings than what they looked for? I believe, at the moment I am making this observation, the breasts of gentlemen beat in concert with it; I am sure my feelings accord most cordially in the sentiment.

I believe the encouragement of our navigation is looked upon to be indispensably necessary; its importance has never been denied.

H. OF R.]

Duties on Tonnage.

[MAY 5, 1789.]

Now, I ask if gentlemen are inclined to support and extend our navigation, whether they are not willing to proportion the mean to the end, and adopt measures tending to increase the quantity of American shipping? It has been often justly remarked, that the Constitution, under which we deliberate, originated in commercial necessity. The mercantile part of our fellow citizens, who are the firm friends to an equal and energetic government, hope the improvement of our navigation may obtain the attention of Congress; it is but justice that it be early attended to, and it will give general satisfaction to find it considered as an important object by the General Government. The most liberal of the friends of American commerce only wish for such regulations as may put our navigation on a footing with foreigners. If other nations have restricted our navigation by regulations or charges, we must restrict them by a tonnage, or some other duty, so as to restore an equality; but this will not be found to be the case in the present instance. The moderate and inconsiderable duty of thirty cents on foreigners in treaty, and fifty cents on others not in treaty, will not enable our vessels to go abroad with as much advantage as foreigners can come here; so that the proposed encouragement may perhaps fall short of procuring us a maritime strength equal to our national security.

The gentleman from Georgia (Mr. JACKSON) says, that five thousand hogsheads of tobacco are now rotting in the warehouses for want of ships to carry them to market. If this is the case, it proves we have depended long enough upon foreigners to supply us with the means of transportation; let us now make some provision that will prevent the like taking place again. If proper encouragement is now given, we may perhaps in a short time have enough of shipping to supply all the States. If the productions of another year must lie in the planters' hands, they will feel a greater loss and inconvenience than the payment of half a dollar additional freight per ton, if it was certain that they would be subjected to such a burthen:—judge from this circumstance, whether there is a competition of interests in the United States. Does not the contrary appear to be the fact? Gentlemen will please to consider how unfavorable it is to commerce, to have the success of their business depend upon the caprice or mercy of any foreign nation. If your produce is to lie till they come to carry it away, you cannot be said to have the command of your property, or possess those advantages which the bounty of nature has given you. How much better is it to go with vessels of our own in search of a market, than to wait for others to take our produce away until it perishes on our hands? Let me ask gentlemen, if they think the produce of Massachusetts would be sold if we were unable to seek a market for ourselves? Would foreigners come to New England in search of our whale oil and fish?

No; foreigners are hostile to our fisheries; so far from encouraging us, by buying what we have for sale, they wish and labor to destroy our trade; their attempts are defeated by our ability to go abroad and seek a market for ourselves. This demonstrates clearly, that, in order to extend the sale of our productions, we must have vessels of our own to find out a market, and be guided by actual experience to that which is best.

The observations of gentlemen tending to show that one end of the continent will suffer more by the regulation contemplated by the House than the other, are, I conceive, not well founded. The price of freight will equalize itself. If the people of Carolina or Georgia pay a high freight in consequence of the tonnage duty, the State of Massachusetts must pay the same, or her vessels will go to the southward in search of freight, so that the Eastern States have no peculiar interest in the measure. It has been suggested, that because Massachusetts has foreign vessels in her employ, she cannot transport produce for others—Massachusetts, by reason of that influence which Britain has, is obliged to receive some of her supplies in foreign bottoms, but this is only a proof that the evil requires a remedy. I might here easily draw a picture of the distress to which the eastern country is subjected for want of a protecting hand; her shipwrights are glad to work for two shillings and six pence a day, or less, and less will not maintain them and their families. Their lumber is of no value, it lies rotting in the forests, for want of encouragement to frame it into ships; the other artisans are clamorous for employment, and without a speedy relief they will have to desert the country. I believe if this relief is extended to them, it will give a spring to their industry, and a little time will render them serviceable to their fellow citizens in the South. They will find markets for their tobacco which is now rotting, and their valuable productions will be transported to all parts of the globe. From these circumstances, I am led to beg gentlemen to consider, that the improvement and extension of our navigation is one of the most important objects that can come before the Legislature; that there are abundant proofs that a regulation in favor of American shipping is absolutely necessary to restore them to an equality with foreigners; and if they are convinced with me of its importance and necessity, they will not think the sums agreed to in committee too high for the purpose of protecting the navigation of the United States.

Mr. JACKSON.—I said, Mr. Speaker, that there was a considerable quantity of tobacco lying in our warehouses, for want of vessels to carry it off. The gentleman from Massachusetts (Mr. AMES) says, that if this is the case, it is time to take the staff into our own hands, and encourage the growth of American vessels. Yes, sir, but let us see the American ships, and then I will consent not only to fifty cents per ton, but to a total prohibition of foreigners. But

MAY 5, 1789.]

Duties on Tonnage.

[H. OF R.]

I say again, do not compel us to make bricks without straw, nor oblige us to carry off our produce without shipping; if Massachusetts has not shipping enough for her own use, she can furnish none for the use of others.

Mr. AMES was obliged to the gentleman for his offer to exclude foreigners, but he did not wish to go so far. He had hoped that a shorter period than gentlemen seemed to contemplate, would be sufficient to improve the navigation of the United States, and expected every State as well as Massachusetts would be able to transport a great part of its own productions.

Mr. BURKE.—Something has been said relative to a jealousy subsisting in the Southern States respecting the navigation interest; I shall, therefore, make an observation or two on that subject. So far as my own knowledge of that country goes, I believe the citizens look with indignation at the power which foreigners have over their commerce. So far from being jealous of the eastern States, they look forward to some future day when their navigation will be secured to that part of the Union. They know that it possesses superior maritime advantages, and expect they will hereafter afford security to them. They know, that from the spirit and industry of the people of New England, they may derive commercial and agricultural benefits. This is also my own judgment on the point. I know they cannot now supply us with vessels to transport our produce, but I hope the time will shortly come when they will have the ability; in the mean time, when I consider how much the Southern staples are fallen in price, and the great debts due in that country, I must say, that I fear a heavy tonnage will be attended with very dangerous consequences. There are very few foreigners but British come among us, and a high duty laid upon their ships will fall severely upon the planters. The Southern people are willing to render any assistance to increase the maritime importance of the Eastern States, as soon as they are able; if, therefore, a distant period is fixed for the commencement of the high duties, I shall be in favor of them; but if they are to take place immediately, I fear they will do a great deal of injury in the present deranged and calamitous situation of our country.

Mr. GOODRUE was glad to hear from the several parts of the House, that there was a disposition to give a preference to American shipping. This principle being fixed, it only remained for the House to ascertain the proper degree of encouragement to be given; the rate agreed to in the committee was not more than good policy required. The gentleman from Georgia fears that the people of his State will suffer for want of vessels, or pay a higher freight than their neighbors; but a high duty is not contended for in the first instance, it is only such a degree of encouragement as will enable us to enter into a competition with foreigners in our own carrying trade. The same gentleman has

said, Massachusetts has not vessels enough for her own commerce, and, therefore, cannot furnish any for others: although Massachusetts employs 7 or 8000 tons of foreign shipping; yet it is supposed she supplies the other States with 30,000 tons. The circumstance of 5,000 hog-heads of tobacco lying to rot for want of vessels, when some thousand tons of ours are idle for want of employment, does not prove the want of shipping, so much as that the price of the article is too high for a foreign market. If the produce is held so high as not to bear the expense of transportation, the merchants who import will be obliged to send off money in payment. In order to remedy these inconveniences in future, it will be necessary to hold out sufficient encouragement for the construction of vessels. Perhaps it may be good policy to allow a moderate tonnage duty at this time, to be increased hereafter.

Mr. MADISON.—I believe every gentleman who hears the observations from the different quarters of this House, discovers great reason for every friend of the United States to congratulate himself upon the evident disposition which has been displayed to conduct our business with harmony and concert.

We have evinced a disposition different from what was expected to arise from the different interests of the several parts of the Union. I am persuaded, that less contrariety of sentiment has taken place than was supposed by gentlemen, who did not choose to magnify the causes of variance; every thing we have hitherto done, tends to make this evident. The importance of the Union is justly estimated by all its parts; this being founded upon a perfect accordance of interest, it may become perpetual. I know that the point before us, has often been selected as a proof that there was an incompatibility of interest in the United States. On this opinion I beg leave to remark, that the difference in point of capacity in the several States to build ships, and furnish seamen, is much less than has generally been supposed. From the extremity of the Northern States until we reach South Carolina, materials of all sorts for ship-building can be obtained in abundance from the bounty of nature; even Georgia abounds with materials of superior quality; although their population disqualifies them for ship-building at present, yet their advantages are such as to enable them in a short time to rival the most prosperous State. In the next place, I may remark, that so far as the encouragement of our own shipping will be given at the expense of the people of the United States, it will diffuse and equalize its operations in every part. The ships belonging to one place will, like the people, seek employment in another where better wages are obtained, and this, in its operations, will level any inequalities supposed to arise from legislative interference.

With respect to the particular article before the House, I do not think it requires the discussion that has been gone into. If we consider the small proportion of shipping belonging to

H. of R.]

Duties on Tonnage.

[MAY 5, 1789.]

nations in commercial alliance with the United States, a duty of thirty cents per ton will be found to affect, in a very small degree, the interest of any particular State; if it increases a supply from that quarter, the burthen will lighten in proportion. With respect to the clause which follows, I have in view to make a proposition to obviate the complaints of the Southern States. I mean that the duty shall be light until the 1st of January, 1791, when it shall be increased; this will give a considerable opportunity for those States that are able, to make gradual preparations to fill up the vacancy that will be left by the withdrawing of foreigners. The more I have been able to collect and compare facts, with respect to American and foreign shipping, the more I am persuaded that it is in our power, in a very short time, to supply all the tonnage necessary for our own commerce. It was said, that the foreign tonnage consisted of two-thirds of what we employed; the facts before me warrant a result more favorable to the navigation of America. It appears from the returns of Massachusetts, that she employs in her commerce 76,857 tons of American, and but 8,794 foreign; New York, 55,000 American, and 30,000 foreign; Pennsylvania, 44,089 tons of her own vessels, and 28,012 belonging to various other nations; Maryland gives employment to 35,671 tons, the property of citizens of the United States, and 26,061 belonging to foreigners; Virginia employs rather more foreign vessels, namely, 29,567 tons, and less American, viz. 26,705; South Carolina has engaged in her trade 31,904 American, and 25,073 foreign; and Georgia employs but 6,500 American, and 13,500 foreign; so that, besides this latter, no State employs so great a proportion as two-thirds of foreigners. New Hampshire, Connecticut, New Jersey, and Delaware, I have not been able to ascertain, but I think there is good reason to believe, that the proportion in those States is considerably in favor of American vessels. The tonnage employed in the seven States I have enumerated, amounts to 437,641 tons, of which 160,907 are all that is owned by foreigners. If I can draw any conclusion from this statement of facts, it is that we have a greater proportion of shipping than has been supposed. This circumstance, annexed to our capacity of increasing the quantity of our tonnage, gives us a favorable presage of our future independence.

It has been said, that the Eastern States have not vessels to transport our produce. I believe, from a variety of circumstances, that the vessels of Massachusetts have not been so readily employed in the Southern commerce as could be wished. This will, perhaps, continue to be the case, except our own citizens carry on our trade. At present, it is almost exclusively in the hands of British merchants, and as long as their vessels are upon an equality with ours, they will naturally be inclined to give a preference to their own; but I hope to see this matter soon rectified, and the citizens of one State

enabled to assist those of another, and receive mutual benefits and advantages. To accomplish this, without doing an injury to any part of the Union, I would propose to reduce the duty only to 25 cents, and increase it at the end of the next year to 60 cents.

Mr. SMITH (of South Carolina).—I apprehend, Mr. Speaker, that on the question of interest with respect to the navigation law, the interests of the Northern and Southern States are more at variance than gentlemen seem apprised of. In my opinion, it would be the interest of the Southern States to give a bounty upon tonnage. In the opinion of the gentlemen from the northward, it is proper to lay a heavy duty. To be sure, I must acknowledge the liberality of gentlemen in not going quite so far as their interest would seem to lead them, but I fear they go farther than will serve the interest of the Southern States. The State of South Carolina is in a very deplorable condition from the ravages of the late war; the inhabitants were mostly plundered of the conveniences and necessities of life; they had to incur considerable debts in consequence; but very heavy debts existed before the war, subject to an interest of 8 per cent. The State is also considerably in debt, the domestic debt alone amounts to a million sterling, and there will be no way to pay this off but by recourse to direct taxation. The State owes to foreigners about one hundred thousand pounds sterling, which must be paid in specie, and also raised by direct taxation. Under these circumstances, the people must endeavor to obtain the best price for their produce; any measure, therefore, that tends to diminish that price will add to their embarrassment.

Gentlemen tell us of the quantity of American ships we may expect, of the low price of labor, and the superabundance of materials to construct them; that they can probably be built at this time for half of what the British build theirs; yet they do not come much among us. Our foreign transportation is made principally in British vessels; indeed, we are at the mercy of foreigners in this particular, and unless they come to us we must be ruined; it would be unwise, therefore, to adopt a measure that would amount to a prohibition. The American tonnage employed in South Carolina has been stated at 31,904 tons, but it is to be considered that these are principally coasting vessels, carrying little or none of our produce, and that they enter eight or ten times in a year. This reduces the apparent quantity to a very inconsiderable actual amount, and leaves us more dependent upon foreigners than we appeared on the first view to be. When these circumstances are duly weighed, I hope gentlemen will not attribute it to a want of liberality in the Southern States, because they are not willing to go so far with them as to destroy the agriculture of their country.

I have some doubts in opposing my judgment to gentlemen who have better information; but

MAY 5, 1789.]

Duties on Tonnage.

[H. OF R.]

so far as I am able to form an opinion, I think the demand for the rice of South Carolina will depend upon the price, and that the freight which is paid for taking it to market will fall upon the shipper. Rice is carried to those countries where it will come cheaper than the grain used for bread. Great Britain takes considerable quantities of rice, but it is not for her own consumption; she seeks out markets of this kind, and disposes of it to a profit, to pay her circuitous freight. She will not be able to continue this traffic, if she has to pay us half a dollar duty; for whatever is added to the freight must be taken off the commodity. The planter will have to lower his price, or the exportation must be cut off. If this be the case, it is evident that a duty on navigation is against the interest of South Carolina and all the agricultural States. I think we have already shown sufficient attention to the manufacturing States, by the impost duties which are agreed to. Gentlemen will please to remember, that the revenue from most of the articles that are taxed will be drawn from the Southern States. We must give an increased price for our necessary supplies, or refrain from their consumption; or we must part with our productions at a less rate. This will be an evil we are unable to sustain in our present distressed condition. You will consider again, if the consumption of the imports is lessened, there will be less reason for British ships to come to us. If the quantity of tonnage is diminished, I need not repeat to the House the consequences. The British merchants will hardly send their ships in ballast to South Carolina for the sake of carrying our produce; the principal reason why we have the advantage of their trade is, because we take their manufactures and give our produce in exchange. It is said we ought to encourage our allies to come among us and participate in our trade. I do not think the difference proposed between foreign nations can accomplish this object. Nothing less than a duty equal to a prohibition on British ships, can do it. Our connexions are kept up with them by the vast debts due to her merchants and factors; it is their policy to continue us in these commercial fetters. Year after year, they import fresh cargoes, and give us credit for the articles we want, taking from time to time our produce in payment. Nothing, therefore, will be a complete remedy, unless you can prevent the consumption of British goods. I believe the people of South Carolina are willing to make sacrifices to encourage the manufacturing and maritime interests of their sister States; but I hope gentlemen will not press the matter too far, and while they are securing advantages to themselves, bear too hard upon others. I wish, therefore, for their consent to reduce the tonnage on the vessels of our allies to 20 cents, and on British bottoms to 30 cents. But if gentlemen persist in keeping up the rate laid in the committee, it will be injurious to the trade of the Southern States generally, and oppres-

sive to the planters in particular, who have not yet recovered from the losses and misfortunes entailed upon them by having their country the seat of war. The distress of the inhabitants of South Carolina has been extreme; it has engaged them to pass a law of a questionable, not to say false policy. But the time is now come to prevent a repetition of the measure; yet their debts must be paid; and it is well known that they have not a farthing of specie circulating among them, by reason of a depreciated paper medium, from 10 to 15 per cent. below par. How, then, can they ever look for ease or content, but by getting a good price as a reward for their industry? If the Government prevent this by a heavy tonnage duty, they must be answerable for the consequences.

Mr. GOODHUE had no intention to injure the interest of the Southern States. He was sorry for their distresses, and wished every encouragement and protection should be given them. With a view, therefore, of obviating the inconvenience suspected by gentlemen, he would second the motion of the gentleman from Virginia, (Mr. MADISON,) if the gentleman would bring it forward, relative to affixing a distant day for the high duties to commence their operation.

Mr. BOUDINOT.—I look upon this subject as of considerable importance to the prosperity and welfare of the United States; of considerable importance as it respects the revenue, and of importance as it affects the interests of the individual States. Whenever I speak of trade, I must own that I feel as if I were out of my element. I can only form my opinion, and determine from such facts as are before me, and the information I get from gentlemen on the floor. I take it, the object in view is to raise a revenue for the support of your Government, and that it must be obtained from one quarter or another; it must either come from an impost on goods, a duty on tonnage, or from direct taxes laid upon the citizens of the Union. We all seem to agree, that where it can be done with propriety, it is most eligible to take it from trade. Under these impressions, we agreed to an impost upon goods, wares, and merchandise. I believe there is no gentleman but would give up every restraint upon commerce, if it were possible to do so without encumbering it with protecting regulations. Then, with respect to the proposed duty on tonnage, it will be necessary to ask, if it be reasonable in itself, and such as will, in an adequate degree, supply the wants of the Union, without adding too much to the embarrassments which trade labors under? For my part, I conceive the best evidence on this point the House is in possession of, arises from the conduct of the different States throughout the Union. It will appear, by referring to their laws, that they have generally adopted the idea of discrimination, and often laid it upon the tonnage. Pennsylvania has laid a duty per ton on vessels of nations in treaty, and a much higher one on those who are

H. OF R.]

Duties on Tonnage.

[MAY 5, 1789.]

not in treaty. Maryland has laid 1s. 8d. per ton on those in treaty, and 2s. 8d. on those who are not in treaty, except the British. The British vessels pay 6s. 8d. besides 2 per cent. on goods imported therein, over and above what is paid by others. Virginia lays 3s. 6d. upon those in treaty, and 6s. 6d. their money, on the nations not in treaty, besides the addition of 2 per cent. ad valorem on all merchandise so imported. Carolina lays a duty of 2s. 9d. sterling upon British sugars, and 1s. 8d. only on those of other nations. This duty, both in principle and consequence, is the same as the one now under consideration. These duties upon the vessels of foreigners in alliance with us, average about 2s. 6d. per ton; consequently, we are within the mark, when we propose 30 cents, or a sum equal to about 2s. 3d. This being the case, I should conceive, if there be no further objection, that a duty of 30 cents was just and reasonable, and could not have a bad effect in any part of the United States. But gentlemen have stated objections, from the peculiar circumstances of some of the States. These objections ought to be attended to, and seriously considered. The spirit of accommodation evinced by both sides of the House, is really a subject of congratulation, and gentlemen will not press hard for a measure that militates against the interest of others. The State of South Carolina requires us to be tender, with regard to her, in this instance. She wishes to emancipate herself from the slavery in which, by adventitious circumstances, she is enthralled. Now, sir, I am of opinion, that the true way to enable her to regain her strength and vigor would be to render her independent of the attendance of foreigners upon her. I think, too, that it might be done in a little time; because, under a small encouragement, our navigation would grow up, so that her sister States might supply her with vessels enough. With this assistance, she would soon clear herself of her incumbrances. When she comes to consider the present regulation in this point of view, she will be satisfied with it, although it may seem to bear a little hard at first. To prove that these expectations are not chimerical, I need only mention the present situation of our India trade, a commerce of but yesterday, and yet there are no less than forty-seven sail of vessels, at this moment, on voyages to and from that country. If these go so far in search of freight, I should imagine employment nearer home would be more agreeable. I think nothing but an imposition on foreign shipping, equal to what the Americans sustain in other countries, can ever enable us to be a maritime nation; and, without this, the abundance nature has lavished upon us will be of little avail. But these advantages ought to be grasped at with caution. I would not materially injure any State by our regulations, if the object could be accomplished by other means. I am willing to go so far with the gentlemen as to reduce the duty to 25 cents, but to increase it hereafter in

the manner proposed by the gentleman from Virginia (Mr. MADISON.) This, I take it, will furnish us with a considerable revenue; and as the quantity of foreign shipping decreases, the revenue will still be the same, by an increase of the rate of tonnage; it will also be serving the Southern States, which I am willing on every occasion to do, as far as good policy admits.

Mr. TUCKER.—It appears to me, that we should rather study to give relief to the citizens of the United States, than to add to their burthens. If we inquire particularly into the measure now before the House, we shall find it will be very burthensome, and one that will bear unequally. It will be harder upon some States than on others, and some will not at all be affected by it. Those States that have ships of their own pay but six cents per ton upon what they use; others who have none, are obliged to pay a much greater proportion towards the revenue, while it is a principle that all duties shall be equal. The exports of South Carolina are more bulky, and consequently employ a greater quantity of tonnage, than the Eastern States. The gentleman from Virginia (Mr. MADISON) favored us with a statement of the tonnage employed in seven of the United States: it amounted to 437,000 tons. The proportion employed by South Carolina, by his statement, is about 60,000 tons; and this appears from the returns from the custom-house of the port of Charleston alone. There are other ports in South Carolina: the tonnage employed therein amounts to several thousand tons more than stated. This, too, was a report for the year 1787, since which time our exports have increased considerably. Certainly the quantity of rice made and exported last year is twenty or thirty thousand tierces more than was shipped the year before; of course there must be more shipping employed now than there was then. These considerations may justly be allowed to increase the proportion of the tonnage of South Carolina to 70,000 tons. Then is 70,000 tons to 437,000 the proportion by which she is represented in this House. The representation of that State is one-thirteenth part of the whole, but the revenue she is to contribute is in the ratio of a sixth or a seventh. Now, on this calculation, it appears she pays a tonnage duty nearly equal to double what could be required of her by direct taxation.

Gentlemen have shown themselves extremely tenacious, whenever they apprehended their States were likely to suffer more from a regulation than others. I do not mean to reflect upon them for this conduct. They may suppose themselves better acquainted with the local circumstances and ability of their immediate constituents than other gentlemen are, and can foresee the probable effects better. Under these impressions, they give opposition. They not only have a right to do so, but it is their duty, and they would be blamable if they did not. I do the same on this occasion, on the same principle.

MAY 6 1789.]

Duties on Tonnage.

[H. OF R.]

It ought to be considered, further, that the States who have no shipping of their own, pay the duty to go out of their States, because the price of freight will be the same for American shipping as for foreign. The duty on the whole quantum will be paid, but a great proportion does not go into the public treasury; it goes into the pockets of the owners of American vessels.

It has been observed, that the exports of this country cannot be obtained from any other quarter, and it is inferred therefrom, that however much we increase the price, it must be paid by the consumer. The weight of the observation has been in a great measure removed by the remarks of several gentlemen, but I do not think the inference is fairly drawn. It is a fact, that the merchants who have had this produce, have not been able to increase the demand: so far from it, in some years they have lost thirty or forty per cent. by the business. This, then, is a proof that the burthen falls upon the planter, and not on the consumer. The quantity we send to market must be used: the price depends upon the quantity and demand. As a further proof, I need only mention, that last year there was more rice exported from South Carolina than in former years, and the price at Charleston fell from 14s. to 10s. per cwt.

By these observations, I have only attempted to show the effects of a general regulation; but if any discrimination takes place, and bears exclusively upon particular States, the measure most undoubtedly becomes more exceptionable. The discrimination on shipping will certainly raise the freight to the amount of the highest duty. Both American vessels and those of our allies will take advantage of the situation of South Carolina, and receive the same sum from us as the British, who pay a considerable part of it into the treasury. From some accounts of the custom-house, it appears that the tonnage employed at Charleston amounts to 62,000 tons: add the tonnage of the other ports, as I said before, and it will be 70,000. Gentlemen have contended that two-thirds of our shipping are American. If their proportions are just, then South Carolina will have to pay the highest tonnage we lay on the whole 70,000 tons she employs. Consequently, two-thirds of this sum are given as a bounty to American shipping, and but one-third goes into the treasury to increase the revenue. Then it appears that the object of the tonnage duty is not so much to raise revenue, as to give encouragement to the shipping of the other States. The Northern States will pay none of these burthens, if they export their produce in their own bottoms, or if it should happen that the owners of ships take the advantage of the high duty. The consequence will be, that they only pay a bounty to their own shipping, and the money does not go out of their State; but when it is paid by the Southern States, it goes for the benefit of others, out of the country, never to return.

The gentleman from Jersey (Mr. Boudinot)

has made some calculation of the tonnage duties under the former confederation, and it appears to him from thence, that the States are willing to come into a tonnage duty nearly to the same amount of what is now proposed. That this is every where the case, I deny. But admitting it, for argument's sake, to be as he has said, that all the States have laid duties of this nature, it only proves two things: first, that they were in a state of independence, at liberty to do what they pleased in their own ports; and secondly, that the duties or impost so collected continued in their treasury for their own use and convenience. It was a matter of no small consequence whether the supplies were obtained in this way or another, for it was only a transfer from one tax to another; it was paid to the State, and did not leave the country. The Southern States are willing to submit to the inconvenience of a general regulation of commerce; but let them not bear an undue proportion of the burthen. They are willing to accede to something further for the encouragement of American navigation; twenty cents on one class of foreigners, and thirty on another, will give the shipping of the United States considerable advantages. These we are willing to lay. I hope gentlemen will not insist upon forty or fifty, because I think it really oppressive, and will certainly give displeasure to the Southern States.

Mr. BLAND hoped gentlemen would get more information, and be better prepared to determine the question to-morrow, when he expected the subject would be taken up again; at present it was growing late; it was high time to adjourn. He moved the adjournment, and the House agreed to it.

A message from the Senate informed the House, that they had passed the bill to regulate the time and manner of administering certain oaths, with amendments, to which they desired the concurrence of this House.

WEDNESDAY, May 6.

JOHN VINING, from Delaware, appeared and took his seat.

The bill for laying a duty on goods, wares, and merchandises imported into the United States, was read a second time, and ordered to be committed to a Committee of the whole House to-morrow.

A petition of Arthur Greer, of the State of Pennsylvania, was presented to the House and read, setting forth that he has invented a machine which he conceives has reduced to a certainty the discovery of the true longitude or departure from any given meridian north of the equator; and praying that an exclusive patent for his discovery may be granted him for the space of twenty-one years.

Ordered, That the said petition do lie on the table.

On motion of Mr. SHERMAN, the House entered upon the consideration of the amendments

of the Senate to the bill for regulating the time and manner of administering certain oaths.

The following amendments being before them, to wit:

"That the members of the several State Legislatures, and all executive and judicial officers of the several States, who have been heretofore chosen or appointed, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State in which such office shall be holden to administer oaths. And the members of the several State Legislatures, and all executive and judicial officers of the several States, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons who by the law of the State shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken shall cause a record or certificate thereof to be made, in the same manner as, by the law of the State, he or they shall be directed to record or certify the oath of office."

Mr. GERRY said, he did not discover what part of the constitution gave to Congress the power of making this provision, except so much of it as respects the form of the oath; it is not expressly given by any clause of the constitution; and if it does exist, must arise from the sweeping clause, as it is frequently termed, in the eighth section of the first article of the constitution, which authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." To this clause there seems to be no limitation, so far as it applies to the extension of the powers vested by the constitution; but even this clause gives no legislative authority to Congress to carry into effect any power not expressly vested by the constitution. In the constitution, which is the supreme law of the land, provision is made, that the members of the Legislatures of the several States, and all executive and judicial officers thereof, shall be bound by oath to support the constitution. But there is no provision for empowering the Government of the United States, or any officer or department thereof, to pass a law obligatory on the members of the Legislatures of the several States, and other officers thereof, to take this oath. This is made their duty already by the constitution, and no such law of Congress can add force to the obligation; but, on the other hand, if it is admitted that such a law is necessary, it tends to weaken the constitution which requires such aid; neither is any law, other than to prescribe the form of the oath, necessary or proper to carry this part of the constitution into effect; for the oath re-

quired by the constitution being a necessary qualification for the State officers mentioned, cannot be dispensed with by any authority whatever other than the people, and the judicial power of the United States, extending to all cases arising in law or equity under this constitution. The judges of the United States, who are bound to support the constitution, may, in all cases within their jurisdiction, annul the official acts of State officers, and even the acts of the members of the State Legislatures, if such members and officers were disqualified to do or pass such acts, by neglecting or refusing to take this oath. He concluded his observations, by submitting to the House the propriety of appointing a Committee of Conference, to state to the Senate the doubts of the House upon this subject.

Mr. BLAND had no doubt respecting the powers of Congress on this subject. The evident meaning of the words of the constitution implied, that Congress should have the power to pass a law, directing the time and manner of taking the oath prescribed for supporting the constitution. There can be no hesitation respecting the power to direct their own officers, and the constituent parts of Congress; besides, if the State Legislatures were to be left to arrange and direct this business, they would pass different laws, and the officers might be bound in different degrees to support the constitution. He not only thought Congress had the power to do what was proposed by the Senate, but he judged it expedient also, and therefore should agree to the amendment.

Mr. JACKSON.—I believe this House, and the other branch of the Legislature, have the power, by the constitution, to pass a law, obliging the officers of the State Governments to take the oath required by the constitution that their States have adopted, and which has become the supreme law of the land. I believe the general opinion of the House inclines to favor this sentiment. It then only remains to examine the measure on the principle of policy. Here I must give my opinion. I believe, sir, that it is not time to bring it forward, that it is not expedient at present, because some jealousies exist respecting the jurisdiction of the Federal and State Governments. The States had better be left to regulate this matter among themselves, for an oath that is not voluntary is seldom held sacred. Compelling people to swear to support the constitution, will be like the attempts of Britain, during the late revolution, to secure the fidelity of those who fell within the influence of her arms, and, like those attempts, they will be frustrated; the moment the party could get from under her wings, the oath of allegiance was disregarded. If the State officers will not willingly pay this testimony of their attachment to the constitution, what is extorted from them against their inclination is not much to be relied on. Besides, it argues a jealousy in the National Government, which can have no foundation. Can

MAY 6, 1789.]

Manner of taking certain Oaths.

[H. OF R.]

any thing show more friendly to the Union than adopting the constitution, and sending us here to administer it? If we judge from these circumstances, there is good reason to believe that the State Governments will pay a proper attention to the duty enjoined upon them by the constitution. I shall readily agree, if they do not pay this attention, that the National Legislature ought to exercise its powers to compel them; but they know the necessity there is for conforming to what the constitution orders; if they neglect it, it becomes in some degree a relinquishment of their power in government. No State Legislature can pass an act that will have the efficacy of a law. Suppose a judge on the bench were to condemn a criminal to die for an offence; the sentence could not be carried into execution, if the judge had omitted to qualify himself for the discharge of the duties of his office. In short, there would be a total stagnation of the Government, its vital powers would be suspended, until they were revived by the action of the constitution. Besides, the constitution partakes of the nature of a compact; it guaranties to the State Governments the principles of a republican government, conditionally, that the States conform themselves to what is declared in the constitution; they must therefore take the oath directed by the constitution, or infringe the compact; in which case, I apprehend, the guaranty is virtually withdrawn; this is another inducement for the States to perform their duty.

It is not necessary to press the measure at this time, because we see the States daily coming into those measures directed in the constitution; when they thus voluntarily do their duty, where is the necessity of cramming an oath down their throats? For my part, I do not conceive, if a man is forced to take an oath, that he is bound to keep it; at least it is not generally believed to be so; for how often have we seen a man swear three or four times backward and forward during the late war? Oaths were then seldom kept longer than suited the convenience of the party; therefore I am against imposing them when we can possibly do without them; and in the present case we can, perhaps better do without them.

Mr. LAWRENCE.—I believe, Mr. Speaker, if there is any thing improper in making provision that the officers shall take an oath to support the Government, the fault cannot properly be charged upon us, because the provision is already made, and adopted by our constituents; and we are to suppose that some beneficial effects were intended by it; while we are reprobating the measure, let us take care we do not fall under the censure, which the observation of the gentleman last up brought to our view, of taking an oath, and neglecting to fulfil the duties enjoined by it. I believe, sir, that the persons who are to take this oath in conformity to the constitution, will conceive themselves, after having taken such oath, under an obligation to support the constitution. It has been said by

one gentleman, that Congress have not the power to carry this regulation into effect. Only a few words will be necessary to convince gentlemen that Congress have this power. It is declared by the constitution, that its ordinances shall be the supreme law of the land. If the constitution is the supreme law of the land, every part of it must partake of this supremacy; consequently, every general declaration it contains is the supreme law. But then these general declarations cannot be carried into effect, without particular regulations adapted to the circumstances. These particular regulations are to be made by Congress, who, by the constitution, have power to make all laws necessary or proper to carry the declarations of the constitution into effect. The constitution likewise declares, that the members of the State Legislatures, and all officers, executive and judicial, shall take an oath to support the constitution. This declaration is general, and it lies with the supreme Legislature to detail and regulate it. The law is to supply the necessary means of executing the principle laid down; for how can it be carried into effect in any other manner? This explanation, I trust, convinces gentlemen that the power of enacting such a law exists in Congress. But whether it is good policy or not to do it, depends upon a variety of circumstances; for my own part, I think it prudent to make the necessary regulations for carrying into effect this part of the constitution. I imagine some good effects were intended by the provision, nor can I think the feelings of the State officers will be injured by taking an oath to support the Government, when the people, in the language of the constitution, have said they shall. Why should gentlemen suppose the members of the Legislature, or any public officer, have objections to take an oath, when the people have declared one shall be taken by them? I conceive there can be no rational objection on their part. I shall, therefore, be in favor of the amendment proposed by the Senate, trusting that good effects will arise from our making such a regulation.

Mr. SYLVESTER.—I am an advocate for supporting the dignity of the House, and to me it appears somewhat inconsistent that we should change our sentiments in order to conform to the amendment of the Senate, without knowing the reason upon which they have founded the proposed measure. No doubt but sufficient reasons have occurred to them, but none have appeared to this House. If we are to follow the Senate in all the alterations they propose, without hearing reasons to induce a change, our time in deliberation is taken up unnecessarily. With respect to any member of this House who has not taken the oath, I concur that they are to pay obedience to what the authority of the Legislature may order on this head. Nay, I am equally clear that the power to regulate the members of the State Governments in taking the oath, is either lodged with the Congress of the United States, or no where. But, it ap-

H. OF R.]

Duties on Tonnage.

[MAY 6, 1789.]

appears to me, that the State Legislatures have a concurrent power with Congress in this regulation, for the officers of the General Government and State Governments are called upon in the same manner: "The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support the constitution." These are the words of that instrument. The question, then, is reduced to its expediency, whether it is good policy to exercise the power or not? I am afraid, Mr. Speaker, if we exercise this power, it may be considered an interference with the State Governments. I would rather leave them to their discretion, trusting they would come forward and take the oath; it is unnecessary for us to intermeddle, if they will conform to what is directed by the constitution. It appears to me most prudent, that, till we see a disposition in the State Governments to neglect this duty, we do not, by law, oblige them to perform it. I wish the Government to go on gradually in administering the constitution, and not give umbrage even to its enemies, by a compulsory act, when there appears no necessity for it.

I could not concur in the amendment proposed by the Senate, even if I considered it not inconsistent in the House to adopt a measure they had previously rejected, unless some good reasons were offered to show its propriety; not but if I have been mistaken, I am always ready to retract my error, upon better information.

Mr. SHERMAN was not afraid of being charged with inconsistency. He had voted against a similar clause when the bill was before the House, but he was convinced now of its propriety; he thought it more eligible to have a general provision for taking the oath, than particular ones. It also appeared necessary to point out the oath itself, as well as the time and manner of taking it. No other Legislature is competent to all these purposes; but, if they were, there is a propriety in the supreme Legislature's doing it. At the same time, if the State Legislatures take it up, it cannot operate disagreeably upon them, to find all their neighboring States obliged to join them in supporting a measure they approve. What a State Legislature may do, will be good as far as it goes; on the same principle, the constitution will apply to each individual of the State officers—they may go, without the direction of the State Legislature, to a justice, and take the oath voluntarily. This, I suppose, would be binding upon them. But this is not satisfactory; the Government ought to know that the oath has been properly taken, and this can only be done by a general regulation. If it is in the discretion of the State Legislatures to make laws to carry the declaration of the constitution into execution, they have the power of refusing, and may avoid the positive injunctions of the constitution. As our power in this particular extends over the whole

Union, it is most proper for us to take the subject up, and make the proper provision for carrying it into execution, according to the intention of the constitution.

Mr. BOUDINOT wished to remove the gentleman's objections arising from inconsistency. The clause that was rejected by the Committee of the whole on this bill, contained a penalty for the neglect of taking the oath as prescribed; but the amendment of the Senate was not objectionable on that account, because it contained no such provision.

As to the policy or expediency of the measure, he entertained not the least doubt respecting it. The constitution said only that the officers of Government should be bound by oath, leaving to Congress to say what oath. In short it was the duty of the House, as had been well said by the gentleman from New York, (Mr. LAWRENCE,) to detail the general principles laid down in the constitution, and reduce them to practice.

He would enforce the expediency of the measure with one further remark. Several of the State Legislatures were sitting at this time, and had expressed a wish or expectation that such a regulation would be made by the General Government; if from principles of false policy the measure did not take place, the State Legislatures might neglect it also, and it was well known that their officers cannot act without it; hence the legality of their acts may be called in question, and give cause to a great deal of uneasiness and confusion.

The question on concurring with the Senate in their amendments to the bill was carried, with an amendment, that the members of the State Legislatures be directed to take the oath at their next sessions respectively.

The bill was, by order of the House, returned to the Senate as amended.

Mr. LAWRENCE, from New York, presented to the House an application, in the name and behalf of the Legislature of that State, addressed to the Congress of the United States; which being read, was ordered to be filed.

DUTIES ON TONNAGE.

The House resumed the consideration of Mr. SMITH's motion to reduce the tonnage duty on the vessels of foreign countries in alliance with the United States, from thirty cents per ton to twenty cents.

Mr. LIVERMORE.—I rise against striking out thirty cents to insert twenty. Probably, Mr. Speaker, if the motion had been instead of twenty to insert fifty, I should not have risen to oppose the motion. Thirty cents I consider rather too small than too large an encouragement to navigation. I am sorry to find, sir, that this subject has been considered in the light of an opposition between the two extremes of the continent; because I apprehend every individual in the United States is alike interested; it is the mark of an honorable system necessary to the good of the whole. However, if gentlemen

MAY 6, 1789.]

Duties on Tonnage.

[H. OF R.]

still think that any part of this system of finance bears harder on one part than on another, I shall be more delicate in voting or using arguments to oppose them. But I will, with the liberty of the House, proceed to prove, that this part of our system does not bear so much harder upon one part than another, as gentlemen seem to think. In order to do this, I shall endeavor to examine the principles laid down by the honorable gentlemen who support the idea, that a tonnage duty will bear much heavier on the Southern States than on the Northern ones, previously making some observations on what has been urged by the gentlemen from Georgia (Mr. JACKSON) and South Carolina, (Mr. SMITH,) concerning the poverty of those States. They, with great ingenuity, eloquence, and, I may add, candor, displayed the desperate situation of those States; but, can it be unknown to this honorable House, that other States are also very poor? There are, you know, Mr. Speaker, certain degrees of poverty. It may be difficult, without the proper documents, to ascertain the relative degree of poverty between one State and another. The two Southernmost States are said to be oppressed with an enormous public debt; so are all the other States. It is said, that they have great difficulty in getting their produce carried to market. It may be so, but does not the whole of the commodities of those States find their way to market? There are not only different degrees of poverty, but there are also two kinds of poverty, which I will just point out to the gentlemen. The one is the poverty of those States which have got valuable productions on hand that they cannot carry to market—the other is, the poverty of having nothing to carry there, or very little. I need not trouble myself with repeating which of these kinds is the best subject for taxation. However, as I do not conceive this present article was particularly intended to be a tax upon one part of the Union more than another, I shall not dwell longer upon this point, but proceed to observe, and endeavor to prove, that this is a tax upon foreigners only; a tax which foreigners are very able and willing to pay: that is, they will not forsake the trade on account of this tax being laid upon it. It has been observed by the gentleman from South Carolina, (Mr. SMITH,) that the reason why British shipping get so much more freight than the vessels of the United States is, because of the debt which the Southern States owe to the people of Great Britain, and that those people are ready to receive their debts in produce, as soon as it can be got ready for them. This is just and kind of the citizens of South Carolina to use these means of extricating themselves from their difficulties; but I would ask the gentlemen, if they entertain any well founded apprehensions that the British merchants, for the trifling difference of the proposed tonnage duty, will neglect to call upon them, and collect in their debts in this manner? But if they had not this inducement, the duty is too

inconsiderable to retard them from pursuing the profitable business of our carrying trade. Can it be thought, when we have so fair an opportunity to tax foreigners, that we should be acting the manly part to shrink from the experiment? I ask, would it be following their own example? Does she admit us to a participation in her carrying trade? Are we the carriers of our own produce into the West India islands, where they cannot make a shift to live without our assistance? Yet every person knows it would be our interest to go there, and we should be glad to have the privilege, on moderate terms, as well as Great Britain has, to trade to the Southern States; but, instead of a reciprocal advantage arising from our intercourse with Britain, she will not admit us into her ports in that quarter, upon any terms whatever. We cannot get from there even a single hogshead of sugar, while their ships get full freighted here. The British merchant cannot complain of a trifling duty of only one hundred and fifty dollars upon a vessel of three hundred tons; why, sir, it is so inconsiderable that it could not be felt, or hardly thought of. If we agree to this duty, we shall have something to give up to Britain when she is willing to enter into treaty with us for those advantages we mean to stipulate for in their West India trade. That is a profitable branch of business, and the people are ready to return to it as soon as they have it in their power. It is more profitable to our people than ever the carrying trade to the southward will be, because it is more in their way. But Great Britain will not be induced by a small temptation to favor our commerce; she is jealous of the profits arising from her carrying trade, and will admit none that she can help to participate in that business. We have now an opportunity of making our own terms, and have little more to do than take hold of the advantages which are, as it were, put into our hands.

It has been said, by another gentleman from South Carolina, (Mr. TUCKER,) that this is not a tax upon Great Britain, but a bounty in favor of our brethren of the Eastern States, who will get the money for two-thirds of the tonnage employed in America, from the planters and farmers who send their productions to market. Let us examine this point a little. Do not we all believe that the consumer pays the duty on every thing he consumes? This is a universal maxim, and although it may not be strictly true to the utmost nicety of calculation, yet it is generally true. Is the tax on molasses paid by the planter in the West Indies? By no means; it is a duty paid by the people who use it, either raw in substance, or distilled into spirit. No person can possibly conceive, that the duties we pay on merchandise imported, is a duty paid by the people of foreign countries from whence we get them; nor can they say that they are any more necessities of life than the rice, flour, iron, and lumber we ship to other nations.

Another idea is strongly insisted upon, that the duty in contemplation is too great a sacri-

H. OF R.]

Duties on Tonnage.

[MAY 6, 1789.]

fiice to make in favor of the Northern States, that thirty cents is much too high a duty on the ships of our allies, or too great an encouragement to the northern ship-building. In the first place, we are not laying a burthen upon any particular part of the United States. If I understand the matter rightly, the duty is to pervade the whole, and if there be benefit arising from the measure, it may be partaken by all. But it will encourage the ships of the Northern States, gentlemen say. I trust it will; but does not the effect of the benefit expand to every part? A system cannot be improper which, beside procuring considerable revenue, operates beneficially on a great part of the community, without injury to any. Thus it is, that a duty on clothing is eligible; while it raises revenue it promotes frugality and industry; a duty on rum is said to improve the morals of the people, by lessening the consumption, therefore it is proper; though, by the by, I question whether the duty we have laid on spirits will lessen the consumption. The tonnage duty, beside raising revenue, gives encouragement to the industry of ship-builders; but this encouragement is not confined to Northern States, it may be participated in by the middle and southern ones. But then it is said that the Southern States are not possessed of navigation. Why are they not? They certainly might become proprietors of ships if they thought proper. The crops they raise will purchase ships, if they have not the convenience for building them; if they make more profit by their produce than by ship-building, so much the happier are they, and so much the better able to contribute their share of the public taxes. From all of these considerations, I am induced to think, that the duty agreed to by the committee is rather too low than too high, at any rate it cannot be thought too high.

Mr. BLAND.—I am in favor of the lowest sum, although I am a friend of the proposed discrimination. I conceive, Mr. Speaker, that it is a most important duty incumbent upon the Legislature, to attend particularly to the interest of the agricultural part of the United States. I do not think we are prepared, at this early period, to give to commerce the high encouragement proposed by the resolution before you. The gentleman who was last up observed, that the British merchants would not be deterred by the tonnage duty from coming to take our produce in payment of their debts. He may be mistaken in this opinion; he should recollect the new constitution makes treaties the supreme law of the land, and under that foreigners may recover, in the federal courts, the amount of their debts by a legal process; the severe execution of this law may enable them to obtain our produce even at a cheaper rate than what it now sells for. Independent of our want of tonnage to transport our commodities, we should feel considerable disadvantages; but being at the mercy of the British merchants for our transportation, the Southern States will suffer prodigiously by a duty on their shipping, as they will

be forced to employ them, and to give them what they demand.

Gentlemen say, they have it in contemplation to raise revenue by a tonnage duty. I think, Mr. Speaker, it is but doubtful policy to lay a tax on commerce, and burthen the agriculture of America. If you aim at expelling foreigners, I have serious apprehensions you will throw the trade of the Union into a species of convulsion that may prove dangerous. Is it proper, therefore, to risk a subject of such magnitude at present? If the policy of encouraging ship-building in the manner proposed was clear, it would be a different case; but there is even in this House a great contrariety of opinion on that point. From this circumstance, I conclude that the measure under consideration is of questionable policy. I should therefore be in favor of adopting some temporary system, in order to give time to the House to get information relative to the state of agriculture and commerce; for without a more perfect knowledge of those two interests, than we at present have, I believe our regulations will be imperfect, if not inexpedient.

Mr. JACKSON.—Are we of the Southern States to lose our agricultural advantages? If we cannot carry our produce to market, we are cut off from the means of paying our debts, or improving our country. This, in our deplorable situation, will unpeuple our lands, for no State is in such a situation as Georgia and South Carolina. New Jersey suffered a great deal no doubt from the ravages of war, but were they so generally exiled, and their property laid in ruins? Are they at this moment warring on their frontiers? Have they heavy debts hanging over their heads? No, New Jersey cannot now be so distressed; she has successfully recovered, and her wounds are nearly healed over, while those of South Carolina and Georgia are deep and painful as ever. If our commerce is restrained, how are we to pay our debts? No merchant will take our produce, unless he can export and dispose of it to advantage. What will he do, then? Why, sir, the poor planter must be left to his mercy, and we know the tender mercies of the British nation to be cruelty. If this is not experienced in the Eastern States, it is happy for them; but the iron hand of oppression is held over the Southern ones. I dread every thing that can increase its weight, fearful lest it check the operations of industry. The agricultural interest ought to be encouraged and protected, instead of depressed, this being the principal and leading interest of the United States, requiring the serious attention of the Legislature, and we ought to be governed, on this occasion, by what will be most conducive to its support.

Mr. FITZSIMONS.—I consider this as a very important subject, Mr. Speaker; it is of considerable importance as it respects the State I have the honor to represent. Some gentlemen have seemed to suppose, that the duties we have imposed are favorable to commerce, and that we have done a great deal to befriend those en-

MAY 6, 1789.]

Duties on Tonnage.

[H. OF R.]

gaged in that pursuit; but, sir, it is not true that an impost is an encouragement to commerce, the direct contrary is the fact. Look at the revenue then which you are about to derive from that interest, and say, if it does not require some degree of protection in return. All that your merchants ask, or expect, for the sacrifices they make for the general good, is, that a preference be given to American shipping. The representatives of the people will gratify them in this, if we can show that the support of their interest is intimately connected with the interest and welfare of their country. I do not know how it happens, that gentlemen give up the idea of revenue from this source; but, to my mind, the revenue derived from a foreign tonnage will be very considerable, and paid by the people of other nations; for, notwithstanding all that has been said to the contrary, I am firmly persuaded, that in many, if not in every instance, this must be the case. I can demonstrate, that considerable quantities of our produce will go to a market where our vessels cannot go, and that the consumer, in such case, must pay the duties we lay on the ships that carry on that trade. I instanced several articles so circumstanced on a former occasion; it will be unnecessary to repeat them to the House.

How it becomes contemplated by some gentlemen, that the tonnage duty on foreign vessels will be exclusively paid by the Southern States, I cannot tell; I think they are not well warranted in such a supposition. The calculation of the tonnage employed in America, as stated, and I believe it was stated from good authority, by the gentleman from Virginia, (Mr. MADISON) does not support the opinion. The foreign tonnage by that calculation is, Massachusetts, 8,000; New York, 30,000; Pennsylvania, 28,000; Maryland, 26,000; Virginia, 29,000; South Carolina, 25,000; and Georgia, 13,000; (I leave out fractional parts of thousands). Now, if it is really as gentlemen suppose, but which I do not think, that the whole of this revenue falls upon the individual State where the duty is collected, where is the great inequality that has been spoken of? Look once more at what each contributes, and see if the disproportion is so great as apprehended. But admitting the inequality, is its inconvenience to be compared to the great national advantages resulting from such encouragement?

It was said, by some gentleman on a former day, that a considerable part of the produce was lying upon hand for want of shipping to carry it off, and in the State where this is the case no tonnage duty exists. I do not know from whence the information came; but I doubt the gentleman was deceived in assigning the cause why the produce was left to perish in the warehouses. I believe, where it has often happened that considerable loss has been sustained by purchasing articles at too high a rate, those people who have met with the misfortune are apt to decline giving a price for it. The gentleman, I think, acknowledged that the

merchants concerned in shipping the rice of the Southern States, had met with a loss of from 20 to 50 per cent. on what they sent abroad. If this is the case, can any body suppose they will continue a trade with this evident disadvantage? The gentleman from the tobacco countries may expect the same; the exporters of that article have suffered similar misfortunes. We ought not, therefore, to say that the reason why our produce remains on hand is, because there is no shipping to carry it off. Such things have happened when there has been no want of shipping. If the price of produce is greater at home than abroad, it would not be transported, if the vessels were doubly as numerous in our ports as they are. Yet gentlemen complain that the price of produce is too low. We have, since the peace, received very high prices for our produce; but I believe the average price now is generally higher than the average price before the revolution. I remember tobacco was cheaper then than it is now. It is truly said, that the price of an article depends upon the quantity and demand; the first has increased very considerably, the latter little, if any. The cultivation of tobacco has extended itself over South Carolina and Georgia. Before the revolution there was scarcely any raised there. Gentlemen do not imagine, because the fertility of our lands, and the industry of our citizens, double the quantity of produce we have for sale, that the people of other countries shall consume double what is customary. A man can use but little more snuff or tobacco, if it is much cheaper than common, and I still say the consumer pays the price, although that price depends upon the quantity at market, and the demand for it.

It is apprehended by some gentlemen, that a foreign tonnage duty will fall exclusively upon the Southern States. We have seen this opinion not well founded; and the effect is supposed by them to be this. As they have no shipping of their own, they depend upon foreigners; that these will desert them because they cannot afford to pay fifty cents per ton, and of consequence the produce of those States must perish unsold. Let us examine and see how likely it is, that such consequences will result from the proposed measure. There is shipped to Great Britain annually, about 50 or 60,000 hogsheads of tobacco, of which the subjects in that kingdom consume about 13 or 14,000, the remainder is shipped to other countries. Tobacco pays a freight from here to England of from thirty to forty shillings sterling per hogshead, beside commissions and charges of twenty shillings more; after this, the quantity reshipped pays another freight before it reaches the country where it is consumed. Do gentlemen think the merchants of Great Britain would resign this lucrative trade, and the employment of so many thousand tons of shipping, for the trifling duty of half a dollar per ton? What does three shillings and nine pence amount to on a hogshead of tobacco, or a cask of rice? On tobacco one shilling and six pence, and about one shilling on a

H. OF R.]

Duties on Tonnage.

[MAY 6, 1789.]

cask of rice. Will this affect the agriculture and destroy the commerce of South Carolina or Georgia? Will it be equal to the burthen which American vessels are subjected to in British ports? Sir, the amount of the light money alone in England is about twenty pounds sterling on our ships. They have innumerable advantages in their own ports over us, and they have exclusive advantages in our ports. They can take in freight for the British West India Islands, and we cannot carry them a barrel of flour. The trade between America and that part of the British dominions is of the very first importance to that nation. Of the four million gallons of rum imported into America, three million five hundred thousand come from the British colonies. If we did not furnish a market for this article, it would be useless to them; but this is not the only advantage they derive from us, we furnish them with certain articles necessary for the existence of the colonies, which are either exclusively got here, or the price is so moderate that it is not worth their while to get them elsewhere. But some things are not to be got in any other country; a proof of this need hardly be adduced. You have seen the northern colonies planted since the peace, to rival us in those supplies; but you see those colonies themselves dependent upon us, also for necessaries. During the last war, they paid in the islands fifteen pounds sterling per 1000 for hogshead staves. Scantling, boards, shingles, and staves, can only be got from America. Without these they can neither build nor cover their houses; they cannot procure casks for their produce, but if they could get them from any other, it would not be worth their while, because of the expense. Can gentlemen suppose Britain would forego the advantage of supplying us with 3 or 4,000,000 gallons of rum annually, and carrying in return the most valuable of our commodities? Would they be driven from our ports by such a paltry consideration as three shillings and nine pence, Pennsylvania currency, per ton, yet the revenue to us would be considerable, although the duty is but moderate. I look upon the measure as a wise and politic one, worthy of the Representatives of the United States. I do not believe any such dangers will arise from the execution of it as has been predicted; the burthen will be unequal in a very small degree at first, and must soon equalize itself; therefore, in my opinion, not one of the objections made to it ought to have any weight on the minds of the members.

Before I quit the subject, I will add one further consideration. The United States can have no commerce without a navy. Whenever a war shall break out, what a situation will this country be in? How are we to protect our trade? And upon the success of our commercial enterprises depends the sinews of our strength. If our commerce is ruined, our revenue from the impost is annihilated; but if we increase our navigation, and add to the number of our seamen, we shall become respectable, and may be able

to pursue our obvious interest in supplying the parties engaged with the superabundance of our soil, and enable us to stipulate for reciprocal advantages in the West India commerce. If we do not now, while we have time, improve our situation, two or three British frigates may prevent us from gathering these benefits hereafter. The decided advantages of having ships of our own to transport our produce, is too apparent to be much insisted upon. Every gentleman can see how the commercial and agricultural interests are blended in this case, and that the benefits conferred on the first reflect with great strength upon the last.

I shall conclude, with repeating the expectation of the commercial part of your citizens. They ask a preference for their own ships, in order to restore the commerce of America, which was nearly ruined by the effects of the last war. They do not ask a high duty, a moderate one will suffice. I wish to fix in gentlemen's minds, that high duties are not advantageous to merchants, and therefore it is seldom that they are benefited by them. High duties require a considerable part of their capital in money, and the payments do not always come at the most convenient seasons; besides they subject their operations to restraints, and are therefore injurious. I will not enumerate the advantages of the proposed measure as to the revenue it will raise, nor try to show the probable increase of shipping it will in a few years produce. I am satisfied with the equality of the duty, and its salutary effect as it respects the political, commercial, and agricultural interests of the United States, and shall therefore vote against any reduction that has been, or may be proposed.

MR. BLAND.—I never am actuated by narrow or selfish principles, and I should suppose that gentlemen, though they differ with me in opinion, are actuated in a similar manner. The gentleman last up seems to doubt every information given to the House, in argument, except his own. In matters of calculation, I always pay a deference to informed and intelligent minds, and when a member speaks on the subject of commerce, I conclude he speaks with information; but he may err in a desultory calculation as well as others, and it does appear to me, that no member can be possessed of the proper data to form a judgment upon. Under this impression, I could wish we had not gone so early into a system of perpetuity. If we had adopted some temporary expedient to secure our main object, revenue, and then ordered the proper information to be laid before us from all parts of the Union, we should be able to walk with rectitude. I fear at some future day, when we review our proceedings, we shall be concerned to discover how much we have deviated from that path. I do not presume to say it is intentional in the House, because I believe every gentleman present is disposed to promote the general welfare; but it may arise from want of that full information and mature knowledge

MAY 6, 1789.]

Duties on Tonnage.

[H. OF R.]

which the subject most unquestionably demands. No satisfactory impressions have been made on my mind how to vote on this occasion; yet I am anxious so to assimilate the interests of the two ends of the continent, as well as the intermediate parts, that the greatest possible degree of public good may be produced by the least degree of evil. The agricultural interest is the permanent interest of this country, and therefore, ought not to be sacrificed to any other.

Mr. BALDWIN.—After the subject has been gone through so fully, it remains for me to say but little. I should not have risen at all on this occasion, if it had not been to express my approbation of the proposition promised by the gentleman from Virginia, (Mr. MADISON,) respecting a small discrimination at present in favor of American shipping, and looking forward to a greater difference at a future day. I hope the decision will be in this way.

The question now before the House, is for the reduction of the tonnage duty on the vessels of foreign nations in treaty with us. I would then ask, if theirs is such an overbearing and preponderating influence, as to make them dangerous to the American navigation? So far as we are informed, the vessels of such Powers form but a small part of what are engaged in our commerce. Suppose, then, we reduce the discrimination between our own vessels and theirs; it will be an encouragement for more of them to come. And is it not desired by gentlemen that more of them should come? That they want encouragement for this purpose, is capable of complete demonstration. We see every day, the manufactures of those countries and the produce of this, which they require for their consumption, coming and going in vessels belonging to other nations. This circumstance forms a clear and evident proof that our commerce is not in its natural channel. The report makes a discrimination against them, of at least five times as much as the whole duty on American vessels amounts to. If the difference was double, or even treble as much at this time, it would give great encouragement, and not materially affect the revenue, and might be extended hereafter, so as to produce the effect which gentlemen aim at. Their object, if I understand them right, is not so much to give our shipping employment, for the present, as it is to induce the building of them in future, so as to lay the foundation for a marine. Then I take it, Mr. Speaker, their object will be better attained by the measure proposed by the gentleman from Virginia; that is, lowering the duty now, and increasing it two or three years hence; to which period we are compelled to look for those improvements in our navigation which seem to be wished by every gentleman on this floor.

Mr. AMES.—It has been said, that the duty on foreigners ought not to exceed more than two or three times what has been laid upon our own tonnage. I beg to remind gentlemen, it never was the intention of the House to impose

any duty whatever on American shipping; the six cents that were laid was upon a different principle. This being the case, gentlemen will not draw any inference from what was done, to favor what is yet to be done; where the principles are inconsistent, the comparison does not hold good.

Mr. GOODHUE.—The difference proposed is but a trifle in favor of foreigners; indeed the whole duty is but low; perhaps it may be best to be so. But I arose only to call on gentlemen to reflect upon the necessity there is of encouraging the American navigation, and see how much the Southern States are interested in the measure. Suppose, and it is no unlikely supposition, a war was to break out in Europe between any Power and the nation carrying on so much of our commerce; she could not send vessels without charging a freight proportionate to the risk. In such a case, the gentlemen to the southward must look at home for the means of transportation. If it could not be got here, their produce must remain on hand; it could not be sent to market.

Mr. MADISON.—I do not differ with my colleague, (Mr. BLAND,) when he says that the agricultural interest ought not to be sacrificed. I consider every other interest as secondary; but yet some concessions ought to be made, in order to prevent the ruin of a very important concern. If the question was, which of the two should be destroyed by the preference we give, I should have no hesitation;—but I believe both interests are compatible and consistent with each other. I do not consider this subject as it respects revenue: my great object is to provide a maritime defence against a maritime danger. I wish, in doing this, that the burthen should be equally borne; but I do not think a small disproportion is a sufficient reason for rejecting the measure. The expedient I proposed will tend to lessen the inequality, and therefore I hope it will be agreed to. I shall move it, if the question for reducing now before the House is agreed to.

Mr. AMES declared himself against reducing the duty so low, and asked the gentleman what he meant to propose, for the present, on the vessels of nations not in treaty?

Mr. MADISON replied, that he would move to reduce it from fifty to forty; but then he would make it sixty cents per ton, after December, 1790.

Mr. PAGE said, forty cents was really nothing; fifty was but a mere trifle. If gentlemen had attended to what had been said, they must see that such a reduction would render the whole nugatory. Ninety or a hundred cents would be very little after the time mentioned. Can gentlemen seriously believe that a small duty of fifty cents is too high, when they see the British ships paying double that sum every day in Virginia? He conceived the discriminating duty highly proper, and was decidedly in favor of it. If revenue were not obtained by this means, Congress would be

H. of R.]

Duties on Tonnage.

[MAY 7, 1789.]

obliged to have recourse to direct taxation. He need not tell gentlemen how much more injurious this would be to agriculture than a tonnage duty. Their long experience on this point would satisfy their feelings better than he could their judgment. He hoped every proposition for a reduction of the duty would be rejected by the committee.

The question was put for reducing the duty from thirty cents per ton to twenty cents, on the vessels of nations with whom the United States have formed commercial treaties, and passed in the negative.—Adjourned.

THURSDAY, May 7.

Mr. SMITH, of South Carolina, from the committee appointed to wait on the President of the United States, to know when it will be convenient for him to receive the address of this House, reported:

That the committee had, according to order, waited on the President, and that he signified to them that it would be convenient to him to receive the said address at 12 o'clock on Friday, at such place as the House shall be pleased to appoint: Whereupon,

Resolved, That as the Chamber designed for the President's receiving the respective Houses is not yet prepared, this House will wait on the President to present their address, in the room adjacent to the Representatives' Chamber.

On motion;

Resolved, That a Committee of three members be appointed to confer with any Committee to be appointed on the part of the Senate, in preparing and reporting joint rules to be established between the two Houses, for the enrolment, attestation, publication, and preservation of the acts of Congress; as also on the mode of presenting addresses, bills, votes, or resolutions, to the President of the United States.

The members appointed, were Mr. BLAND, Mr. TRUMBULL, and Mr. VINING.

DUTIES ON TONNAGE.

The House resumed the consideration of the report of the Committee of the whole on the duty on tonnage. The proposition was to lay a duty of fifty cents per ton, on all vessels belonging wholly or in part to the subjects of all other Powers.

Mr. MADISON moved to reduce it to forty cents, and at the end of the year 1790, to increase it to seventy-five cents. He was satisfied to go as far as seventy-five, because he expected, under such encouragement, a sufficient number of vessels for the whole commerce of America might be constructed. If he was not too sanguine in this expectation, the measure would be both safe and expedient.

Mr. SMITH, of Maryland.—Both in Virginia and Maryland, British ships pay a higher duty than what is proposed; yet they continue to carry on an extensive trade in those States, which, in my opinion, proves those sums to be

too low. American shipping derives considerable advantages from the regulations made in this respect by those two States. If that protection is withdrawn from them by the General Government, it will subject our commerce to very great inconveniences and absolute destruction. I shall therefore be opposed to the reduction.

Mr. AMES.—The gentlemen from the southward, who suppose their States most likely to be affected by a discrimination in the tonnage duty, have concluded their arguments with a candor, which I conceive does honor to their patriotism. They declare themselves willing to encourage American shipping and commerce, though they do not join with us in the sum we think necessary to be laid on foreign tonnage to accomplish so important an object. If sufficient encouragement is given, and by our regulation American vessels are put on a footing with foreigners, I think we may flatter ourselves with the prospect of seeing our navigation immediately flourish. We have reason to expect a very considerable addition to our shipping in the course of one year. Experience has convinced us, that 25,000 tons can be built within double that period, by the town of Boston alone. The other ports in Massachusetts can furnish 37,000 tons, New Hampshire a considerable quantity, and if the other States furnish their proportion, we shall soon find ourselves independent of European nations for the transportation of our products. If forty cents at present, and the seventy-five cents in expectation, are thought a sufficient encouragement for the purpose, I shall not object to the motion.

Mr. GOODHUE.—On the same principle, as expressed by other gentlemen, I should be willing to lower the duty, not only to forty cents, but to thirty-five, provided, at the end of two years, it was raised so as to answer the purpose intended; but I think, in that case, we ought to go to eighty or ninety cents. I am by no means an advocate for high duties in the first instance, if there is any probability of their being partially oppressive.

Mr. FITZSIMONS.—If it is intended to increase the duty at the expiration of two years, it is certainly proper to reduce it in the interim; but I very much question such policy. The business of ship-building, I conceive, stands at this moment in want of the greatest encouragement in our power to give. If sufficient encouragement is given, at this time, to produce a quantity of shipping adequate to the demand, when we once are in possession of them the business will stand in need of no further encouragement. If the citizens of the United States were now in possession of a sufficient quantity of shipping, and had the ability to employ them, I conceive they would not stand in need of any encouragement whatever. But this is not the case, and therefore an encouragement is requisite. At the conclusion of the last war, we were left without shipping,

MAY 7, 1789.]

Duties on Tonnage.

[H. OF R.]

and from our inability to carry on commerce, by reason of the oppression we were subjected to by foreign powers, the building of vessels has made but slow progress in the several States. Hence it becomes necessary to give encouragement sufficient to induce merchants to vest a greater proportion of their capital in this way. The proposed encouragement is not very high, and even under it, I should not expect a quantity of shipping would be furnished equal to the demand, in less than four or five years. It would be brought forward by slow and gradual degrees; they will continue, year by year, to increase them, until the number is competent to the demand. The business of ship-building being so relaxed, persons of that occupation have turned to other avocations, and some sensible advantage must appear, to induce them to return to their original profession. A proof of this is evidenced by the situation of Philadelphia. Before the Revolution, 5,000 tons of shipping were annually built in that city: last year, the whole tonnage was but 1,300, so much has it declined there. If it revives from its present languishing condition, it must be by great fostering care and protection, and by slow and gradual degrees. It does not appear to me, that fifty cents are more than necessary for its immediate encouragement. Gentlemen will be pleased to recollect that it is always in the power of Congress to increase it.

Yesterday, gentlemen seemed to think, that encouraging our own vessels would injure the agricultural interest, because they cannot get British shipping to carry off their produce. I beg to remind them, that a very considerable aid is furnished by the commercial to the agricultural interest, in finding markets for a considerable part of their produce, which British shipping does not carry off. It is well known, the vessels of that nation are prohibited carrying any salted provision, more than they want for their ships' use. It is her policy exclusively to supply her dependencies with that article; so that none goes off but what is transported in our own vessels. I think, from the account of exports of our State for one year, 40,000 barrels of beef have gone abroad, and 100 tons of butter. These commodities could not have been exported, if we had not had ships of our own to send them in. Gentlemen see what an advantage results to agriculture from this one source alone. Since the merchants of America have opened a direct trade with India, we have exported articles to a great amount, which were scarcely known before last year. Six or seven hundred thousand weight of ginseng was shipped, and we exported one hundred thousand weight the year before, which would never have been sent, had not our commercial exertions opened the way for a direct intercourse with that country. Advantages of a similar nature will be sought and found, when our navigation extends into its natural channels. The sooner we are enabled to do this, the better.

Gentlemen will recollect, on the article of

hemp, immediate encouragement was contended for. It was not opposed by the commercial gentlemen in this House. But without encouragement is given to building and fitting out ships, the demand for hemp will be small; for very little advantage will arise from exporting it: the great market must be furnished by ourselves. Upon the whole, I conclude against the motion, believing our ship-building to need encouragement more at this time than it will at any subsequent period.

Mr. JACKSON.—The gentlemen from Massachusetts have, I must own, behaved with liberality. One is willing to reduce the duty to forty cents, another gentleman is more liberal still—he is willing to go lower; but not so the gentlemen from Pennsylvania and Maryland; they are actuated by other principles. They call to my mind a passage of scripture, where a king, by the advice of inexperienced counsellors, declared to his people, “my father did lade you with a heavy yoke, but I will add to your burthens.” A steady pursuit of this counsel brought about the separation of his kingdom. These gentlemen want us even to go further. They bring forward calculations upon the moment, and pass them for information,—the mere calculations of yesterday,—and demonstrate thereby the propriety of their measures. They may consider some States of less importance than others, because they do not contribute the same quantity of revenue; but let them remember, the widow's mite is as good as the rich man's coffers; so the mite of Georgia is equal to the revenue of Pennsylvania.

The gentleman from Pennsylvania has mentioned the article of hemp: let him take example from the conduct of its friends. They liberally agreed to lessen the duty for the present, to increase it after the year 1790. What is the return remains for gentlemen to show?

Mr. PAGE was decidedly against any alteration. He thought the encouragement contended for was essentially necessary; but if it was not, the measure ought to be adopted, in order to avoid direct taxation. Any little inequality would soon subside, and the direct intercourse promoted by the regulation would compensate for any disadvantages it might occasion.

Mr. BURKE.—It has been observed, in the former part of the debate, that the people of the Southern States might buy ships, if they did not build them. There are none owned in Carolina: we are destitute both of ships and seamen, and unable to procure them; it would be folly in us, therefore, to burthen them with duties. Though it is true, that there are men there who live in affluence, are rich in lands and servants, yet I believe they are universally in debt. This may be fairly inferred from the laws they have made to favor debtors. It would take twelve years to enable people there to pay their State and private debts; they are therefore very unable to sustain any new burthens, especially when their produce is so fallen

H. or R.]

Duties on Tonnage.

[MAY 7, 1789.]

in price as not to pay the expense of cultivation. I do not say this is to be attributed to the want of vessels to carry it off, though there may probably be a great want in this respect; and if there is, gentlemen tell you they are unable to make up the deficiency. If this be the case, they ought to be contented with a moderate duty for the present; and as my mind is strongly impressed with the importance of encouraging the American navigation, I shall join them in doing something that may be productive of that effect.

Mr. MADISON.—As there is a great diversity of sentiment respecting the policy of the duty, I am very happy to find it is not prescribed by the geographical situation of our country. This evinces that it is merely difference of opinion, and not difference of interest. Gentlemen of the same State differ as much as gentlemen from the extremes of the continent. As no objection is made to giving some encouragement, we ought to endeavor to harmonize upon the quantum. I doubt very much if any proposition that can now be brought forward will coincide with the sentiments of this body more than the one that is before us. I am not anxious to reduce the encouragement too low, nor to throw to a very distant day the advanced rate intended by my modification of the measure; so gentlemen need not apprehend any evil to arise from its adoption.

Gentlemen who are opposed to giving sufficient encouragement to ship-building, ought to recollect an argument that was considered of weight in the case of encouraging manufactures. It is certain that manufactures have been reared up by the fostering care of the State Legislatures, displayed in the shape of protecting duties; but the people, by the adoption of this constitution, have put it out of their power to continue them. The provision for the support of navigation, made by the several States, ought to induce us to suppose even a higher tonnage duty pleasing to them, at least in those States where a higher tonnage duty has been laid. Those States, not being able to continue their encouragement, expect that we will attend to their policy, and protect their citizens in the property they were led to acquire under the State regulations. If we disappoint them, they will suffer more than is consistent with good policy. I am not apprehensive that forty cents will be so low as to occasion any discontent.

It has been supposed, that the burthen of this duty would particularly fall upon the planters of the Southern States. There may be some justice in the suspicion; but forty cents, I think, will not excite complaint from that quarter, when the advantages are properly considered. A maritime force is essentially necessary to the United States, and, in time of war, will be particularly employed in defence of the weaker part. South Carolina and Georgia, having neither seamen nor shipping, must depend upon the other States for their defence. If, therefore, the duty will promote this

strength, it will render the Union respectable and safe, and ultimately favor their interest.

Mr. SMITH, of South Carolina.—Gentlemen have endeavored to persuade us, that a high tonnage duty will be beneficial to the Union; but I would as soon be persuaded to throw myself out of a two story window, as to believe a high tonnage duty was favorable to South Carolina. Gentlemen tell us we are in great want of shipping and a navy—that sufficient encouragement for ship-building must be given before we can expect it; but I think, let the encouragement be what it may, many years will elapse before we have sufficient for the export of our commodities. I know Massachusetts cannot furnish us, because there are adventitious causes to prevent it. The course of the stream in which our navigation has so long flowed, cannot be altered in a day. The debts due from the merchants of that country to the British, will be an insuperable bar. Suppose they should send ships to transport our produce to a foreign market, they have no connexions abroad to transact their business, no house in a commercial line to employ in the sales. What are they to bring back in return? They must come in ballast: and will the mere transportation of our crop be a sufficient inducement to engage them to come here? If they had more shipping than they wanted, we should still labor under the same difficulty, and employ foreigners; because the business is unchangeably in their hands, and the very moment the tonnage duty is increased, it will be an inducement to them to raise the price of freight.

It has been said, and justly said, sir, that the States which adopted the constitution, expected its administration would be conducted with a favorable hand. The manufacturing States wished the encouragement of manufactures, the maritime States the encouragement of ship-building, and the agricultural States the encouragement of agriculture. Let us view the progress we have made in accommodating their interests: We have laid heavy duties upon foreign goods, to encourage domestic manufactures; we are now about to lay a tonnage duty, for the encouragement of commerce; but has any one step been taken to encourage the agricultural States? So far from it, that all that has been done operates against their interest: every duty we have laid will be heavily felt by South Carolina, while nothing has been done to assist, or even encourage her or her agriculture.

We have been told, that these measures will benefit the Southern States, because we want shipping and manufactures, and it would be better to take them from our friends than from strangers. We know the governing principle in trade to be interest; but leaving that out of the question, I believe there are causes existing which will prevent the introduction of the manufactures of the Northern States into the Southern ones; beside the long commercial connexion subsisting between South Carolina

MAY 7, 1789.]

Duties on Tonnage.

[H. OF R.]

and Great Britain, there is another advantage she possesses over others: it is the custom of British merchants to send out their goods upon credit; they establish agents and houses to deal them out to planters as they are wanted, and take their crops in return. Now, without the manufacturers of Massachusetts, or any of the other States, pursue the same conduct, they would not be able to sell their commodities. It is well known, that we have not ready money there to pay down for the articles we want, credit being the established medium of trade in that country. Gentlemen must see it would take much time and the strongest efforts to alter it, though I am sensible that we pay severely for the indulgence; yet the habit, being established, is hard to be broken.

If we are by custom or necessity obliged to take British goods, that nation will load them with heavy duties to counteract our policy. The manufacturing States will not feel this evil: the only method we have, sir, to extricate ourselves from our distresses, is by the sale of our crops; any imposition laid upon tonnage will affect the price of them, and lessen our power to pay our debts, and thereby emancipate ourselves from the commercial fetters by which we are bound; until which time it will be impracticable for us to deal with any other country.

MR. LAWRENCE.—There have been circumstances mentioned in the course of this debate, which I think may be useful in ascertaining whether the proposed duty of fifty cents on tonnage be too high or not. It appears that there is a duty in Georgia equal to 1s. 8d. sterling; in South Carolina, 1s. 3d. besides something on goods imported in foreign bottoms; in Virginia and Maryland it is much greater. How, then, can gentlemen from those States contend that the proposed duty is so much too high as to occasion the fatal consequences they foretell? When we consider the valuable produce of the Southern States, we are led to believe that the difference of ten cents per ton can make no material difference in the price. Will it materially affect the price of rice or tobacco? Neither of these articles would pay more than five cents per cask, if the duty should be reduced.

The duty, therefore, cannot be fairly said to be too high for the Southern States; it is not contended to be too high for the middle ones; it is not too high for us.

If we consider the subject as it relates to revenue, it will form a material object for our attention; if the duty be considered as a bounty to the maritime States, it will be admitted that it is our interest to increase our navigation.

The regulation proposed by the gentleman from Virginia, to increase the duty to seventy-five cents at the end of two years, may never take effect; before that period arrives, a treaty may be formed with the nation that is our great commercial rival. I am, therefore, in favor of a permanent regulation, rather than one holding

out an encouragement that will never take place.

MR. JACKSON.—The gentleman last up thinks the reduction of ten cents will not materially affect the Southern States, yet he supposes it will injure ship-building; how it can hurt one interest by being reduced, and not wound the other by its increase, I do not clearly understand; for my part, I do not see the weight of such arguments.

MR. LAWRENCE.—I consider the difference of ten cents to be too small for contention; the arguments of the gentlemen in opposition go as much against a duty of forty cents as against fifty.

MR. PAGE.—I have heard all the arguments now brought against this measure, urged over and over again, when a tonnage duty was contended against in the same manner in Virginia. It was then merely a trial, but now we have the arguments resulting from experience in our favor. We find the British shipping still crowding our ports, although the tonnage duty is twice as great as is now proposed; and although the price of produce has fallen within that time, yet I am persuaded it must be attributed to other causes than this. Let the experiment be made with firmness, and I venture to say, it will turn out the same in other States as in ours. I acknowledge the gentlemen's arguments have weight, but they go against any tax whatsoever being laid on tonnage. But experience has demonstrated to us, that such a duty is attended with advantages; it will encourage ship-building, and render us independent for the transportation of our produce. Let, therefore, no suggestions of the kind that have been offered deter us from pursuing, with firmness and decision, the plan adopted by the committee.

MR. WADSWORTH.—If the gentleman who has brought forward this proposition had proposed thirty cents instead of forty, I should have agreed to the motion, because it would have destroyed the discrimination between the vessels of nations in treaty, and those not in treaty with us; but in every other point of view, I should be against a reduction. Foreign vessels will be better circumstanced under a duty of fifty cents, than American free of duty. The charges on foreign bottoms in our ports are very small; there is not, I believe, a vessel of ours that goes to Europe, that does not pay, in light money and other charges, more than fifty cents per ton.

MR. MADISON.—The subject of discrimination is not now within our view; it has been decided by a great majority; I think there were not more than nine members against it. I do not mean, by the arguments that I have urged, to prove that the increase of tonnage has a tendency to raise the price of freight: all my object has been to quiet the apprehensions of gentlemen who hold that opinion. I do not think it will keep away foreign vessels from visiting us, nor increase the burthen on our southern

H. of R.]

Duties on Tonnage.

[MAY 8, 1789.]

commerce, so much as has been calculated; and even if it did, the extension of our navigation would be an adequate compensation. The price of freight before the late revolution was higher than it is at present; perhaps it may be lower when ships are furnished in larger quantities.

Mr. TUCKER.—I fear the gentlemen who look for a sufficient quantity of shipping to answer the demands of our commerce in so short a space as two years, will find themselves deceived. I think, therefore, it would be improper to lay a high tonnage duty, commencing at that period; if it appears expedient, a future Legislature may give such encouragement, but they are not bound to perform our engagement. After they have seen the effect of the present regulation, they will be better able to judge of what is right in this particular than we can do. I am doubtful whether the measure would place the United States in a better or worse situation than a duty of fifty cents; a commutation of this kind, in order to save ten cents for two years, and admit an addition of twenty-five cents forever afterwards, appears a doubtful policy. At any rate, the Congress might feel themselves, in some degree, bound to raise the duty to seventy-five cents, when their judgments might tell them it was inexpedient—they will then have cause to complain of our anticipation. I should, I think, rather be in favor of fixing a certain tonnage duty at present, and leave it to the consideration of a future Legislature, whether to increase it or not, according to the circumstances of the case. I think thirty cents as much as can be given, with propriety, at this time; considering the interest of the State I have the honor to represent, I believe it will bear harder on some States than on others, acting partially and not generally. When I speak of the State I represent, I would not be thought actuated by improper motives; I think every gentleman is bound to support, in a proper manner, the interest he is well acquainted with, and believes to be conducive to the general welfare. A great deal has been said respecting the duties that have been laid on tonnage in the Southern States. I begged the attention of the House, on a former occasion, to a striking difference there is in duties imposed by the State, for its own particular advantage, and what are about to be laid for the benefit of the United States. Every duty imposed, I consider as a tax on the inhabitants of South Carolina. If that tax is to bear harder on them than on other States, I pronounce it unequal and unjust. I consider the tax on tonnage in this light; but as I am willing to give encouragement to our navigation, so I shall not oppose a moderate duty on foreign vessels; as I also conceive a discrimination proper between those nations in alliance with us and those with whom we have no treaties subsisting, I am disposed to admit a larger sum than thirty cents; I would propose thirty-five, upon the express condition of reducing the duty already agreed

to, to twenty or twenty-five, when a bill shall come forward founded upon the principles now agreed to.

The question was here put on Mr. MADISON's motion, and lost.

The House then decided upon the original proposition, which being agreed to, it was

Resolved, That there ought to be levied on all vessels entered or cleared in the United States, the duties following, to wit:

On all vessels built within the United States, and belonging wholly to citizens thereof, at the rate of nine cents per ton.

On all vessels not built within the United States, but now belonging wholly to citizens thereof, at the rate of six cents per ton.

On all vessels belonging wholly to the subjects of Powers with whom the United States have formed treaties, or partly to the subjects of such Powers, and partly to citizens of the said States, at the rate of thirty cents per ton.

On all vessels belonging wholly or in part to subjects of other Powers, at the rate of fifty cents per ton.

Provided, That no vessel built within the United States, and belonging to a citizen or citizens thereof, whilst employed in the coasting trade, or in the fisheries, shall pay tonnage more than once in any one year; nor shall any ship or vessel built within the United States pay tonnage on her first voyage.

Provided also, That no vessel be employed in the transportation of the produce or manufactures of the United States, or any of them, coastwise, except such vessels shall be built within the United States, and the property of a citizen or citizens thereof.

The same was, on a question put thereupon, agreed to by the House.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. WADSWORTH, Mr. HEISTER, and Mr. SENEY, do prepare and bring in the same.

FRIDAY, May 8.

The Speaker, attended by the members of the House, withdrew to the room adjoining the Representatives' Chamber, and there presented to the President of the United States the address agreed to on Tuesday last, to which he returned the following answer:

GENTLEMEN:

Your very affectionate address produces emotions which I know not how to express. I feel that my past endeavors in the service of my country are far overpaid by its goodness; and I fear much that my future ones may not fulfil your kind anticipation. All that I can promise is, that they will be invariably directed by an honest and an ardent zeal; of this resource my heart assures me. For all beyond, I rely on the wisdom and patriotism of those with whom I am to co-operate, and a continuance of the blessings of Heaven on our beloved country.

The Speaker and members being returned into the House:

Mr. GERRY, from the committee appointed, presented, according to order, a bill for collecting duties on goods, wares, and merchandises

MAY 8, 1789.]

Duties on Imports.

[H. OF R.]

imported into the United States; and the same was received and read the first time.

Ordered, That the Clerk of this House do procure one hundred copies of the said bill to be printed for the use of the members of this House.

On motion,

Ordered, That the committee appointed on the 29th ultimo, to report an estimate of the supplies requisite for the present year, and of the net produce of the impost, as agreed to by the House, be authorized and instructed to collect early and authentic statements of the particular articles of foreign produce and manufactures annually imported into, and of all the articles exported from, the several States, and the value of such imports and exports; also, the number of vessels, both foreign and domestic, entered and cleared during that time, specifying their tonnage, and the nations to which they respectively belong; specifying, also, the exact numbers of each particular description of vessels of each nation, and the amount of tonnage of each particular vessel.

On motion,

Resolved, That this House will, on Tuesday next, proceed by ballot to the appointment of a Sergeant-at-Arms.

DUTIES ON IMPORTS.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill for laying a duty on goods, wares, and merchandises imported into the United States.

MR. PAGE in the Chair.

MR. TUCKER.—As I am desirous of beginning with moderate duties, I deem it proper, at this stage of the business, to offer my reasons in support of this opinion, that, if it be the opinion of the committee, we may go uniformly through the list, and make the necessary reduction. I am opposed to high duties, particularly for two reasons: 1st, because they will tend to introduce and establish a system of smuggling; and, 2dly, because they tend to the oppression of certain citizens and States, in order to promote the benefit of other States and other classes of citizens. I cannot say I have a peculiar aversion to a high duty on distilled spirits; I may, therefore, be suspected of inconsistency in moving to reduce it; but I do it on the principle of a general reduction. If I do not succeed on the first article, I shall despair of succeeding on the others.

It appears to me that if we lay high duties on the importation of goods, a system of smuggling will be adopted before we can possibly make the necessary provision to prevent it. I take it, sir, that proper regulations respecting the collection is all our security against illicit trade. From a variety of circumstances, it appears to me, we shall not only be a long time in completing such a system, but, for want of experience, many of the regulations will be of a dubious propriety. Gentlemen will recollect

we have an extensive sea-coast, accessible at a thousand points, and upon all this coast there are but few custom-houses where officers can be stationed to guard the collection of the duties; therefore, we labor under considerably greater disadvantages than a thicker settled country is liable to. I apprehend, if we consider the present state of our population, we shall conclude it impracticable to establish a sufficient number of custom-houses, on those parts of the coast most assailable, to render us perfectly secure in the collection of our duties. If it were practicable, the expense would be a formidable objection; it would require more revenue to support such a system than all we shall derive from the impost. But we know in Great Britain, where the duties are high, no expense is spared in the collection, yet smuggling is carried on to a very considerable amount; the risk run by this class of people is very great, the penalties are very severe, and the vigilance of the officers renders detection not very improbable. As this is the case, under the administration of a very powerful Government, I apprehend ours, which is only in its infancy, will be unable to prevent it taking place, otherwise than by a system of moderate duties. If we begin with laying them high, there will be an immediate temptation to engage in a system of smuggling, a system of which may soon be formed, so as to render our future efforts ineffectual; it is better to avoid the temptation, than to punish the evil. A man that is disposed to trade fairly, will be brought under the necessity of falling into the same practice, or giving up his business; for the higher the duty, the greater the advantage the smuggler has over the fair trader, being compelled by necessity to engage in a contraband trade, or to forego the means of a livelihood. Smuggling will be no longer dishonorable, no longer difficult, and none will be found opposing the practice; repeated efforts to corrupt will be successful among even the officers of your customs; they at first may resist the temptation, but when they find the practice general, their vigilance will wink at a contraband trade, and smuggling will be considered as a matter of course. They will consider the reward given them for being out of the way as a benefit to which they are entitled. For these reasons, I shall be against a system of high duties, and because I fear there is danger of a system of smuggling being introduced before proper arrangements are made to prevent it; or if we had time to make such arrangements, they must inevitably be ineffectual.

The other reason for which I am opposed to high duties on enumerated articles is, because it tends to the oppression of a certain description of citizens and particular States, in order to promote the advantage of other States and other citizens. The State I have the honor to represent will be injured by such duties, yet that State requires relief rather than additional oppression. We may very well know, that

H. OF R.]

Duties on Imports.

[MAY 9, 1789.]

there are several States that do not import those articles, consequently they do not contribute their proportion to the support of the Union. On the principle of lessening the inequality, if the motion I now make shall be seconded and approved by the committee, I will go on to make a reduction on most of the articles, beginning with this, so as to have them on a lower scale than that we have at present before us. It was with a view to bring about this measure, that I voted for a high duty on molasses, when that article was first before us. If the duty on West India rum is reduced, I shall be willing to make a proportionable reduction on molasses. When this list of duties came before the House from the Committee of the whole, I found the scale was adhered to, and was therefore under the necessity of voting as I did, for the highest sum rather than the lowest. In doing this, I was actuated by a desire of having some security of the Eastern members for the general reduction which I wish to bring about. I was convinced by their arguments, that a high duty on molasses is oppressive to the poor. I do not wish to add to their burthens; on the contrary, I should be glad to exempt them from taxation altogether, if it was in my power; but this, I apprehend, cannot be done: they must be taxed in proportion to the other citizens. An impost duty on articles of importation will affect the poor of every State, provided they consume the goods brought from foreign countries. I could not answer for my conduct, if I did not agree to a heavy tax upon the Eastern States, when I found the Southern ones taxed in that proportion. If the gentlemen of Massachusetts think the duty on molasses bears too heavy on their State, they may remedy the evil by agreeing to a general reduction. If they insist that the burthen operates unequally and oppressively, it is not the fault of us, who are compelled to the measure by a similar imposition on the consumption of our State.

I would observe further, that a high duty not only tends to the encouragement of smuggling, but it likewise raises, in my mind, a scruple respecting the allowance of a drawback, as I conceive every drawback becomes an additional encouragement to smuggling. In many instances, I fear it may be found, that the drawback will amount to more than all the duties paid in the States which are entitled to it. Considering the situation of the States of North Carolina and Rhode Island, which are not in the Union, their contiguity to the other States will increase the facility with which smuggling can be carried on; it will be easy to import articles from Europe and the West Indies into their ports, and send them by land, or even water, to the adjacent States. When these are smuggled into the United States, they may be re-exported and entitled to receive a drawback, although the revenue was not collected upon the importation. If we agree to moderate duties, it will be much easier to regulate our system on this head; if our revenue is found

not to be quite so productive as gentlemen calculate upon a system of higher duties, which, by the by, appears to me to be very unlikely, we shall be better able to judge what we can do after a trial, than we can possibly at present; at any rate, it will be but a small loss; whereas, by a large scale, we may throw the whole Union into confusion, and there will be no remedy by which we can recover what we have now in our power; for a reduction of duties, when they are once laid, is productive of the most serious consequences. Having, therefore, a strong impression upon my mind, that we hazard a great deal in imposing high duties in the first instance, I should not have been satisfied with having done my duty, if I had not stated my doubts and difficulties to the committee; but having done this, I shall content myself with their decision, be it what it may.

On motion, the further reading of the bill was postponed—adjourned.

SATURDAY, May 9.

JEREMIAH VAN RENSSLAER, from New York, appeared and took his seat.

The bill for collecting duties on goods, wares, and merchandises imported into the United States, was read the second time, and committed to a Committee of the whole.

The following communications were received from the Senate by Mr. Otis, their Secretary:

“*Ordered*, That, when a message shall come from the House of Representatives to the Senate, and shall be announced by the doorkeeper, the messenger or messengers, being a member or members of the House, shall be received within the bar, the President rising when the message is by one member, and the Senate also when it is by two or more. If the messenger be not a member of the House, he shall be received at the bar by the Secretary, and the bill or papers that he may bring shall there be received from him by the Secretary, and be by him delivered to the President.”

MR. SPEAKER: The Senate have disagreed to the report of a committee appointed to determine what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the constitution; and have appointed a committee to consider and report under what title it will be proper for the President of the United States in future to be addressed, and confer thereon with such committee as this House may appoint for that purpose. The Senate have also appointed a committee to view and report how the rooms in the City Hall shall be appropriated, and to confer with any committee this House may appoint for that purpose.

DUTIES ON IMPORTS.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill for laying a duty on

MAY 9, 1789.]

Duties on Imports.

[H. of R.]

goods, wares, and merchandises imported into the United States. Mr. PAGE in the chair.

Mr. TUCKER.—The observations I made yesterday were intended to apply generally against a system of high duties. As to the particular article of spirits, I have no objection to a high duty being laid upon it, provided it can be strictly collected; for I do not wish to give encouragement to the consumption of that article, though, I fear, no duty we can lay will tend much to discourage it. I thought that if it was the general opinion of the House to lessen the duties, it would be a saving of time to discuss it on a motion to reduce the first article. I repeat the observation, that high duties are improper, because they are impolitic, and likely to defeat the object of revenue: less will be collected on them than on moderate ones. If it be considered as an encouragement to manufactures to lay heavy duties on enumerated articles, it is a tax on one part for the emolument of another. Five per cent. upon all articles imported would raise a considerable revenue, and be a sufficient encouragement to manufactures, especially if we add to this five per cent. the expense of freight and other charges of importation on foreign goods. The five per cent. in the bill is to be collected on the value of the goods at the time and place of importation; the value of goods within the United States is twenty-five per cent. more than they cost in Europe; adding this therefore to the other advantages, and it will be a considerable encouragement; but, besides all this, there are many articles made here as cheap, and cheaper, than they can be imported. Gentlemen, who have given us this information, know the fact to be so in their respective States; in them, therefore, the operation of the measure would be just and politic, but it does not apply with the same force as it respects South Carolina and some other States. Although in Boston and Philadelphia they can manufacture certain wares cheaper than they can import them, yet they are not brought at the same price to Charleston; hence the operation is unequal and a partial tax upon us. Another thing to be considered is, even if these articles could be furnished us at home as cheap as we get them from abroad, whether we should have equal advantages? If a cargo of nails were to be sent to Carolina, I would be glad to know how we are to purchase it? Would the makers of shoes be content to go there and retail them? If they would, they might be brought there; but I apprehend, if they have not established connexions in that country, they could never be disposed of. Can they expect the planters to come in a body, and take off their goods upon their arrival? It is not even expected that they could; it must be left to them to judge, whether they do not purchase them in a better way, by taking them upon credit, and paying for them in their crop. Gentlemen will not pretend to say that we do not know our own interest, and therefore they will teach us. These reasons will not go down with the people; they will take

to themselves the right of judging what is most conducive to their interests. Gentlemen cannot argue from the fact, that we do not consume the articles made within their States, as readily and willingly as those imported from abroad, merely because we do not wish to encourage them. Facts prove the direct contrary; we have shown a disposition to encourage articles from their States, which can be made in our State in great abundance. I will mention a few of them, although it may appear disgraceful for South Carolina to take from any country what she can furnish herself. We have imported to the city of Charleston vegetables for table use, which we can raise as well as any part of the world; yet no complaint was made by the agricultural interest of that State, that we imported foreign productions to their prejudice; no duty was imposed to discourage the use of them; all we considered was, whether they came cheaper when brought from abroad than when raised at home, concluding the cheapest to be the best.

On the same principles that are now urged, our citizens might have contended that we should impose a duty on all articles which could be produced at home. No imposition on the importation was laid in order to encourage the productions of our country; the same principle ought to have induced us to lay a duty on the importation of flour. We make but little of that; our constituents consume rice in place of it. It might have been said, that a heavy duty should have been laid in order to prevent the interference with our staple commodity. The planters should have said, we will compel you to eat rice, and after being some time in the habit you will find you like it as well as we; indeed, this argument might be extended to a measure calculated to oblige the other States to use rice in their daily food. It might be said, that it was necessary in order to give encouragement to the productions of the Southern States, but I believe such arguments would have had no weight if they had been used; yet they are similar to what have been brought forward by gentlemen for the encouragement of domestic manufactures.

Mr. Speaker, if gentlemen are content with moderate duties, we are willing to agree to them and give every reasonable encouragement in our power, but we cannot consent to very great oppression. I once more wish that gentlemen will consider great duties as imposing a heavier burthen upon the Southern States, as they import more, the other less; and the sum we pay towards the revenue must be in proportion to our importation. I therefore move, in order to begin with the first article, that distilled spirits be reduced six cents per gallon.

Mr. JACKSON seconded this motion, and would assign his reasons for it, but they had been so fully stated by the honorable mover.

Mr. AMES.—I wish the committee may consider, with the attention the subject demands, whether the duties are too high or not? It is hardly possible, I own, to contemplate this sub-

ject as a practical question. We shall find it necessary to consider attentively, before we proceed any further, what the objects of our Government are; and, having discovered them, we are to consider whether the proposed measure will answer the purposes intended. I believe, in every point of view that we can possibly consider it, the subject of revenue will be thought to be one of the primary objects to which the power of Government extends. It has long been apprehended, that an ill administration of the new constitution was more to be feared, as inimical to the liberties of the people, than any hostility from the principles of the constitution. Of all the operations of Government, those which concern taxation are the most delicate as well as the most important. This observation applies to all governments. Revenue is the soul of Government, and if such a soul had not been breathed into our body politic, it would have been a lifeless carcass, fit only to be buried. I would wish this soul might be actuated by rational principles, that, in establishing a revenue system, we might go on a superior principle to that which has heretofore been the governing principle in the United States; that we might consider what was most adequate to the object. The nature of the revenue system in this Government is to the last degree important; for want of the soul, the late Government was found utterly incapable of invigorating and protecting industry, or securing the Union; therefore these seem to be the great objects which we are to accomplish. I consider the present question as a direct application to the principles of the constitution; it will either support or destroy them. If the revenue system should fall with oppressive weight on the people, if it shall injure some in their dearest interests, it will shake the foundation of the Government. However the newspapers may stand your friends, and trumpet forth panegyrics on the new constitution, if your administration does not give satisfaction, you will find all ineffectual that they can do, whilst the people are against you. This being admitted, the Government will not push their regulations too far; they will consider the weaknesses and prejudices of the individual members of the Union. When they lay a tax, they will consider how far it is agreeable to them, and how far the measure is wise in itself. If it is said the article to be taxed is a luxury, and the Government is zealous to correct the vice, they will be careful they do not do it in too severe a manner; the principle would be capable of great expansion: all the enjoyments of social life are luxuries, and, as objects of revenue, we ought to set a price on the enjoyment, without suppressing their use altogether. Neither ought we to consider what the article in this point of view is able to pay, so much as what we may reasonably expect to collect from it.

I believe various opinions are entertained on this subject. I have been told, the sentiments of some respectable merchants favor high du-

ties, but I know there are as respectable gentlemen, whose judgment and information are much to be relied upon, decidedly of the contrary opinion, who think that we are treading upon ice; that if we impose these high duties at this time, we are doing an irreparable injury to our country: to that opinion I am myself inclined. I do apprehend very great inconveniences will result from pursuing these measures. I fear the collection will be insecure, your laws not be executed, and, of consequence, your Government fall into contempt. In collecting a revenue, I would determine with accuracy what might be expected; but in case of high duties, no calculation can be made; it rests with the self-interest of individuals to determine what shall be paid. Notwithstanding all the observations which gentlemen have made, to show the probability of collecting the duties with certainty, I have still very serious doubts, and if the Government cannot collect the revenue, the system is not worth supporting. Government is founded in necessity, its powers are to check the unruly sallies of self-interest; to restrain which requires an unwearied attention in every department of Government. It can hardly be thought good policy, therefore, to incite them, by great allurements, to violate the laws, to which mankind are naturally too prone. Now, we know that there are but two ways to prevent the perpetration of fraud upon the revenue, arising from an impost upon the importation of merchandise; one is, to lay the duties so low as not to offer an inducement to smuggling; the other is, by increasing the impediments and risk, so as to counterbalance the temptation. The checks and precautions ought to amount to a complete evidence that the law cannot be evaded, otherwise we not only suffer a loss of money but of reputation also. Taking it upon this principle, I am at a loss to imagine how gentlemen can suppose they can collect thirty or forty per cent. on the value of goods imported, unless our laws are better constructed than the laws of other nations. In those countries, where the best regulations have been adopted upon the experience of ages, it is found impossible, in cases of high duties, to prevent illicit trade; how can we, then, who have not that experience, nor a more nervous executive, expect to raise forty per cent. in the first instance? For my part, I despair of it. What grounds have gentlemen for entertaining such ideas? Do they think there is any thing in our local situation to enable them to make sure work of it? They have told us, that the Governments of the Southern and middle States heretofore collected the duties with tolerable certainty. I admit it, because there are natural causes existing there rendering the collection practicable; but there are no such causes to the eastward. The Chesapeake and Delaware are the two great avenues through which the navigation must enter into those countries; the other avenues are few, and may be easily guarded. Add to this another consideration, that their

MAY 9, 1789.]

Duties on Imports.

[H. OF R.]

trade is principally carried on in large vessels, and by foreigners; their citizens are generally concerned in agriculture. These circumstances compounded operate thus. If they are subjected to high duties, strangers have less knowledge of the country, and are without the connexion necessary to ensure success to smuggling; besides, the people, considering the money as coming out of the pockets of foreigners, are more desirous of having it paid with certainty, than they would probably be if it was demanded of their friend and neighbor. But let us consider the situation of Massachusetts and New Hampshire. The foreign shipping employed in their trade is very inconsiderable, consequently the motive which operates in Virginia will be insensibly felt in those States; but the citizens of Massachusetts are generally a commercial people, the greater proportion along the coast are engaged in commerce. Perhaps, if I thought so highly of State honors as the subject demands, I might be concerned at being obliged to speak the truth; but the duty I owe to the Union induces me to forego every consideration of that nature. If I am under an impression that your laws will be unpopular, and left without that support from the people necessary for their due execution, I must come forward and warn you of the danger. From the experience we have had of the opposition of our people to the British acts of Parliament, because they were either unjust or unpopular, I am led to fear, if the same opinion is entertained with respect to our ordinances, that they will be defeated in a similar manner. The habit of smuggling pervades our country. We were taught it when it was considered rather as meritorious than criminal; therefore we have just reason to apprehend their success in evading the public impositions, although the temptations should be small.

The State of Massachusetts has a prodigious extent of seacoast, of near one thousand miles in length, indented with innumerable bays and rivers, forming the finest, most accessible, and securest harbors in the world. It must be impossible to guard them all, even if our population was crowded; add to this, that there are two thousand sail of vessels, large and small, coming in and going out constantly. If this statement is true, I ask gentlemen whether a law can be enforced that is repugnant to the judgment, feelings, and interests of so large a proportion of the people, possessing every possible advantage to elude your grasp? The former Government, with a wakeful vigilance and anxious desire, endeavored in vain to seize this object. The State Governments, instituted by the people themselves for their particular benefit, have hitherto been unable to execute laws of this nature. If the same cause for evasion exists under the General Government, will it not produce the same effect? I know of no peculiar power residing in us that the State Governments were not in the possession of at the time they made unsuccessful efforts to ob-

tain revenue by a system of high duties: what, then, do we expect? The merchants are to associate, and form a phalanx in our support; private honor is to be called in aid of public measures. If this is done, what then? I have no doubt of the virtue and patriotism of many of these gentlemen; the most respectable merchants will disdain to smuggle; but there will ever be found a band of inferior characters, I care not what you call them, infamous parricides, ready to defraud your revenue by evasion, or any other means in their power. These men will get the business into their hands, and being under no restraint of honor or virtue, rob you by secret means of the great essential to the well-being of the Government. It will become impracticable to support it by other means, and we shall stand a monument of imbecility to future ages.

If gentlemen will consider how large a revenue may be drawn from the commerce of this extensive and fertile country, they will know the value of the stake they play for, and not risk it at a single cast. If we begin with laying moderate duties, it will redound to our honor, and give our constituents a confidence in the Government. When this shall be well established, and when they find themselves happy under its benign influence, they will be bound by an interest arising from experience, as well as by principle, to support you. Under these manifestations of mutual regard, the duties may increase as the wants of Government demand, without exciting clamor or complaint. If my principles are right, and they rest upon the sure basis of experience, it will not be enough that gentlemen say our duties will probably be collected; they must go farther, and demonstrate that there cannot be a reasonable doubt entertained of our success. The magnitude of the object we risk demands as great a degree of certainty as to its effects as the nature of the case will admit. If a heavy impost is the least beyond what the powers of Government can reach, a punctual collection of the difference in the duties will not compensate for the hazard we engage in.

I submit it to gentlemen to say, whether there is any other reason for laying high duties but what arises from pecuniary considerations? If there be not, and it is well known that a moderate duty realizes as much revenue as a high one, gentlemen will concur in the reduction. It is easy to determine by experience, that it will be agreeable to the citizens; if so, it will bring them in individually to the aid of the Government, which they will learn to venerate and obey. How much better is this than holding out temptations for men to enrich themselves and beggar your treasury, to trample on your laws, and despise the Government itself?

MR. MADISON.—The right understanding of this subject is of great importance. The discussion has been drawn out to a very considerable length on former occasions. The chain of ideas on which the subject is suspended, is not

very long, nor consists of many links. The present constitution was framed to supply the defects of the one that has preceded it. The great and material defects of it are well known to have arisen from its inability to provide for the demands of justice and security of the Union. To supply those defects, we are bound to fulfil the public engagements; expectation is anxiously waiting the result of our deliberations; it cannot be satisfied without a sufficient revenue to accomplish its purposes. We cannot obtain the money any other way but by taxation. Among the various objects of this nature, an impost on merchandise imported is preferable to all others, and among the long list of articles included in the bill, there is not one more proper for the purpose than the article under consideration. The public sentiment has strongly pointed it out as an object of revenue. I conceive, therefore, that it will be our duty to draw from this source all the money that it is capable of yielding. I am sure that it will not exceed our wants, nor extend to the injury of our commerce. How far the powers of Government are capable of going on this occasion, is matter of opinion; we have had no direct experiment of what can be done under the energy and popularity of the new system; we must recur to other sources for information, and then, unless the circumstances are alike, the comparison may not be true. We have been referred to the experience of other nations; if that is to guide us on this subject, I am sure we shall find precedents for going much farther than is now proposed. If I do not mistake the calculations that I have seen of duties on importation, they amount to more on an average than fifteen per cent.; the duty on ardent spirits in all nations exceeds what is in contemplation to be laid in the United States. I am sensible that the means which are used by those nations to ensure the collection, would be odious and improper in this country; but I believe the means which this country is capable of using, without exciting complaint or incurring too much expense, would be as adequate to secure a duty of fifteen per cent. as the powers of any other nation could be to obtain ninety or one hundred per cent. If we consult the experience of the United States, it does not admonish us that we are proceeding too far; there are duties now under collection, in some States, that amount nearly to the same as those we have in contemplation. A duty collected under the feeble operation of the State Governments, cannot be supposed beyond our powers, when those duties have been collected by them, with feeble powers, but under a competition, not to say opposition, of the neighboring States. I am led, from a knowledge of these circumstances, to believe that when we have established some general rule, and have the co-operation of all the members of the Union, we shall be able to do what is proposed by this bill, better than any one State could execute it with its separate strength. If we consult the opinion

of the merchants, we shall not find them a very sure guide. Merchants do not pretend to infallibility; but if they did, they have given a proof to the contrary, by their difference of opinion on this subject. Gentlemen of that profession, both within these walls and out of doors, have been as much divided on this point as any other description of men. I believe them to be the best informed as to the probable effects of an impost system, but they are not exempt from the infirmities of human nature. We know there is an essential difference between the interest of merchants and the interest of commerce; we know there may be distinctions also between the interest of commerce and of revenue; and that in some cases we must sacrifice the one to the other. I am not sure that we are not under the necessity of doing both in the business before us. It is barely matter of opinion what revenue the General Government will be able to draw from the system now proposed. This being the case, I have endeavored to make up mine, from the best materials in my power. I pay great respect to the opinions of mercantile gentlemen, and am willing to concede much to them, so far as their opinions are regulated by experience; but if I am to be guided by this information, it will not lead me to agree to the reduction of the duties in the manner contended for. It is said, that if we reduce at all, we must go through the whole. Now I doubt whether the duty on the article of rum exceeds that proportion which pervades the long list before us. It does not amount to more than thirty per cent., while some other articles stand at forty; some articles again that are not enumerated, but which fall within the general mass at five per cent., are more likely to be introduced clandestinely than this article, if it stood at fifty per cent. I am sure, if we reduce the whole system in the manner now proposed, all the duty we shall be able to collect will be very incompetent to what the public necessities demand. We must turn our eyes, then, to some other source that will fill up the deficiency. There are but two objects to which in this dilemma we can have recourse—direct taxation and excises. Direct taxation is not contemplated by any gentleman on this floor, nor are our constituents prepared for such a system of revenue; they expect it will not be applied to, until it is found that sufficient funds cannot be obtained in any other way. Excises would give particular disgust in some States, therefore gentlemen will not make up the deficiency from that quarter. I think, upon the whole, it is better to try what will be produced by a plan which is favored by the public sentiment. This will give a support to our laws equal to the greatest energy of a strong execution. The citizens of America know that their individual interest is connected with the public. We shall then have the strong motive of interest acting in favor of the Government in a peculiar manner. But I am not inclined to trust too much to this security. I would take in the aid of the best regu-

MAY 9, 1789.]

Duties on Imports.

[H. OF R.]

lations in our power to provide; these acting in concert, would give a moral certainty to the faithful collection of the revenue. But if gentlemen notwithstanding will persist in contending against such a system, and cannot offer us a substitute, we must fail of the primary object for which the Government was created. If upon experience we find that the duties cannot be safely collected, it may be proper to reduce them; but if we set them too low in the first instance, and they do not yield a sufficiency to answer the just demands of the public creditors and the expenses of Government, the public reputation must suffer.

I need not inform gentlemen we are surrounded with difficulties; they are seen on every side; but they appear as few and as surmountable on the side of the bill, as they do in any other part of the prospect. If we give way on this article, we are to do so upon all others. It is not for any reason peculiar to Jamaica spirits that the reduction is moved for; hence, I conceive, if gentlemen meet with success in opposing this duty, we shall be reduced to a system inadequate to our wants, and thereby defeat the chief object of our appointment.

MR. BLAND.—I join with the gentlemen who are disposed to lower the duties. Although I feel the necessity we are under of raising revenue as much as any other gentleman possibly can, yet I think we ought to deliberate fully upon the means before we adopt them. It is demonstrable, nay it is self-evident, that laying high duties, in the first instance, will beget smuggling, and I fear our regulations, respecting the collection, will prove the impracticability of defeating the practice. But when we come to consider the subject in another point of view, I trust such a system will be found unnecessary. The enumerated articles in this bill are very numerous; they are taxed from fifty per cent. downwards; the general mass pays five per cent. The calculations made by the late Congress, who no doubt maturely considered the subject, found a list of eight articles only, and those at one-fourth or one-fifth of the rate now proposed, would produce a revenue of nine hundred and fifteen thousand six hundred and fifty-six dollars annually.

When we add to this calculation a circumstance of notoriety, the increase of our importation, we shall find that we levy, or mean to levy, greater sums than the public necessities require. There will not be found specie enough within the United States to pay the duties: four times the rate of what the former Congress recommended, will produce three millions six hundred thousand dollars. The enumeration is four times as great also; hence we may infer, that the amount will reach thirteen or fourteen millions. At least we shall be convinced that we are upon too high a scale. But where is the necessity of raising the impost to this degree? There are other means of revenue, and such as will not give disgust. We have already proposed a duty on tonnage; there is

the post-office, and some other things which the ingenuity of Government can devise and is entitled to, for the purpose of revenue; if it is therefore unnecessary to levy such oppressive taxes, what other pretext can be set up for adopting the system? Independent of every other consideration, this ought to induce us to lower them. But there are other and weighty considerations; but as they have been well urged by the gentleman from Massachusetts, (Mr. AMES,) I shall not touch upon them. It is said, that it is merely matter of opinion whether they are too high or not; if so, let us be careful not to venture too far on such ground. It will be much better to reduce it in the manner proposed by the gentleman from South Carolina, and increase it hereafter, than strain the measure too high at present.

MR. SHERMAN.—After this subject had been debated in a Committee of the whole, and then in the House upon the report, and every argument that could be thought of had been urged, both on the general and particular amount of the duties proposed, and the probable effects of a deduction, I did not expect to have heard the same debate take place again. Gentlemen have a large field to display their abilities in, but I do not think it contains any new matter that will induce a single gentleman to alter his opinion on the subject. The great object is to raise a sum of money adequate to supply our wants; and let us dispute as we will about the mode, the fact is it must be raised. The people have sent their representatives here for this purpose; it is for their benefit that we raise the money, and not for any peculiar advantage to ourselves; the objects are to pay the debts, and to provide for the general welfare of the community. The first of these objects I take to be, that we pay our debts. There are very many meritorious characters who furnished us with essentials in the hour of imminent danger, who, from the imbecility of our former Government, have not been able to get even the interest of what they loaned us. I believe it is the first wish of the people throughout the United States to do justice to the public creditors, and to do it in such a manner, that each may contribute an equal part according to his abilities. We have very considerable arrearages due on this account, upon not only the domestic but foreign debt; there are several instalments not yet discharged, and considerable of the interest not yet paid. No statement can be made of the expenses of Government, so as to ascertain what quantity of revenue will be demanded on that head, but saying that they will be much the same under this Government as the former, and we shall have occasion for a very considerable sum to defray the expenses. I believe we are not able to make a very accurate calculation of what the system, proposed in the bill, will yield. The late Congress contemplated a million of dollars from this source, which, in aid of the requisition, they supposed sufficient for the purpose of paying the instalments of the na-

H. OF R.]

Duties on Imports.

[MAY 9, 1789.]

tional debt and interest; but that sum alone will now be found very short of what is wanted without the aid of direct taxes. It is very material that we lay the burthen as equal as possible, in whatever mode we pursue to obtain revenue: a great deal of care has been taken in distributing the proportion with equity; I apprehend, therefore, that we shall not be able to make it much more equitable by any alteration than it is at present. I think, also, that the people will pay more freely a duty of this nature than they will in direct taxes. If gentlemen prevail in getting the duties lowered to what the late Congress proposed, they will find themselves obliged to have recourse to direct taxation for a million and a half, or two millions of dollars. It then only remains for us to consider, whether it will be more agreeable to the people to reduce the impost in this manner, and raise the deficiency by direct taxes. If these duties are to be considered as a tax on the trading part of the community alone, they are improper; but this I believe is not the case; the consumer pays them eventually, and they pay no more than they choose, because they have it in their power to determine the quantity of taxable articles they will use. A tax left to be paid at discretion must be more agreeable than any other. The merchant considers that part of his capital applied to the payment of the duties the same as if employed in trade, and gets the same profit upon it as on the original cost of the commodity.

As to the tax on distilled spirit, it will be felt as little as any other whatever; and from this source we are to expect a very considerable proportion of the revenue. If we attend to what every body says abroad, we shall have a great deal to do, for there is a great variety of opinion. I have received information from a gentleman of knowledge and experience on this point, and he says that it is his opinion, and the general opinion of those about him, that the duty on distilled spirits is too low by one half: the same are the sentiments even of the importers of this article. The duty on it cannot be said to be unequal, as it has been contended on other articles: it is pretty generally consumed throughout the United States. The State I belong to is at a considerable distance from the West Indies, yet she consumes no inconsiderable quantity, much more than I wish she did. The gentleman from South Carolina seems to suppose that the duty will bear harder upon his State than upon others. I cannot think it will be the case; but if they consume more, they should agree to a high duty, in order to lessen the consumption. As to the subject of collection, they refer us to what was done under the Government of Britain: in my opinion the comparison does not hold good. It was thought lawful by the people of America to evade those duties, because they were unconstitutionally laid; they were not represented in the Parliament of Great Britain, and it is a principle that taxation is founded upon representa-

tion. As to the collection of the State duties since the peace, I think the Governments have labored under greater disadvantages than the United States will under this system; the duties that were collected by them went into the treasury of the particular State into which the goods were imported; the people who consumed those goods in other States, thought it a peculiar hardship to pay into their funds what they thought ought to belong to the United States. The great embarrassment arose from this inequality; under the present system, each State will pay alike, and will be alike benefited.

One gentleman has observed, that there is not money enough to pay all the duties imposed in this bill; but is it not as easy to introduce money as merchandise? When there is a demand for it, the merchants will bring it in, for they can as well bring less of a commodity and more money; so that, if this should take place, the objection will be done away. It is in this way that we must be supplied with cash, because we have neither gold nor silver mines to draw it from; if we get it, it must be imported, and will be imported, if it is more advantageous than the importation of other articles.

I think we ought to rely a great deal on the virtue of our constituents; they will be convinced of the necessity of a due collection of the revenue; they will know that it must be done in this way, or it will be by direct taxation. I believe the people will prefer this mode of raising revenue, and will give all the assistance in the execution of the law that is in their power; and as the mercantile part of the people will see that it is equally laid, though it may be something higher than the States have hitherto required, they will submit themselves to our ordinance, and use their influence to aid the collection. I know there will be some characters concerned in an illicit trade, acting without principle, but I think we can restrain them. If there is a degree of infamy attached to the wretches concerned in smuggling, and the practice is detested by the community, a man will scarcely be able to carry on such trade with advantage. It appears to me, therefore, that we had best let the system remain as it is; the duties are reasonable, and will operate as equitably on the people at large as practicable; it will, at the same time that it raises revenue, tend to enrich the country, by promoting the industry and economy of our citizens.

Mr. WHITE.—When this system first came before the committee, I was opposed to enter into an enumeration, because I supposed much time would be taken up in the discussion, which would be an absolute loss of revenue, perhaps to a greater amount than the difference between the duties of such a system and the one proposed by the late Congress; but as it was thought proper by the committee to proceed in the way that we have done, it would be presumption in me to say, that the duty on every article has been perfectly digested and proper-

MAY 9, 1789.]

Duties on Imports.

[H. OF R.]

ly laid, but I believe every article stands as well as can be upon the information we are in possession of. I believe very few, if any, of the articles can be disapproved of. The gentleman last up has anticipated every thing that occurred to me on the subject. The question appears to turn upon this point, whether the duties can be collected or not? For my part, I have no doubt but they can. It has justly been said by the gentleman from Massachusetts, (Mr. AMES,) that money is the soul of Government; that, without such a soul, Government cannot exist; then it will be necessary that we obtain this vivifying principle. The most popular mode of doing it, is by way of impost, and I believe it was a prevailing motive with the people to adopt the new constitution. I am satisfied in my own mind, that it will be the most agreeable and least oppressive of any mode in our power: if a popular measure could be effected without law, what may we not expect from the co-operation of both? Before the revolution, a private commercial combination regulated the importations between America and Britain. If any man was suspected of an infraction of the non-importation agreement, his conduct was strictly watched; if his guilt was discovered, he was published and held up to the world as an enemy to his country. Something like this may be expected to take place now; because every man is convinced of the importance and necessity of enforcing the revenue laws of the Union. This, in addition to our legal establishments, will give an efficacy to public measures, which other countries are unacquainted with.

The Eastern States cannot be viewed in the odious light which is reflected upon them on account of their former conduct. That they combined in a system of smuggling was accidental; it does not belong to their patriotic spirit; they are, I flatter myself, the friends of good Government; they know the value of union, and would do nothing from principle to injure the general welfare. At the time when they defeated the machinations of a British Parliament to effect their ruin, they looked upon the measures not only as oppressive, but unconstitutional and unjust, and the man who opposed them with vigor and success, was regarded as his country's friend. But the contrary will now be the case, and the man who shall aim at the destruction of his country by frauds on her revenue will be considered her greatest enemy. The man who can stab to the vitals and spill the heart's blood of the Government (for money is the vital principle) must be base indeed. These circumstances will make a deep impression on every mind, and each will furnish his individual aid to obtain the full and due execution of the law. If this spirit prevail, and become general, there will be no difficulty in carrying the regulation into operation.

Mr. FITZSIMONS.—I have listened with an anxious desire of hearing something important on the question which now agitates the commit-

tee; but I must say, that nothing of that kind has reached me. There has not a single argument been used this day but what has been urged before. After this remark, it will not be expected that I should take up the time of the committee by making a reply to what I conceive has been fully replied to already. But as much has been said respecting the public opinion on the amount of the duties, I must beg them to excuse me a few words on that point. With respect to the opinion of commercial men—and I live in a State where commerce is pretty well understood and pursued, a State whose imports are as great as any in the Union—from that quarter I have received information differing essentially from what has been stated by the gentleman from Massachusetts; so far are they from complaining of them in that State, that they think them rather low; they have no doubt as to the collection. Having heard the same sentiment from other quarters, I think so far as the commercial opinion can be ascertained, I may venture to assert it is in favor of the duties agreed to. The particular article of spirits is peculiarly fitted for raising a considerable duty; it is of small value, great bulk, and general consumption. These are circumstances which make the revenue certain and important. If gentlemen believe rum an irresistible temptation at fifteen cents per gallon, they must imagine several articles charged but five per cent. ad valorem equally so, because they can be smuggled with greater profit and less risk of detection. A man can carry on his shoulders valuable goods subjected to a duty of five times as great an amount as what is charged upon a hoghead of rum. A pound of Hyson tea at two shillings is a greater incentive to smuggling than a gallon of rum at fifteen cents; yet I do not remember to have heard gentlemen contend against the duty on teas on that account. If revenue is to be raised by way of impost, we must select those articles that are least liable to become objects of illicit trade. I believe a proper attention has been paid to this point, and am, therefore, well satisfied with the list contained in the bill.

A gentleman from Virginia (Mr. BLAND) has said, that the present scale of duties will raise a revenue of 13,000,000 dollars. If he is well founded in this opinion, most certainly the duties ought to be reduced, because it is a much larger sum than the wants of the Union require; but I cannot flatter myself into such a belief: 13,000,000 of dollars is too great a sum to be expected, even if all the powers and exertions of Congress were drawn into action. But let us examine what may be the wants of the United States during the current year. The expense on the civil list cannot be estimated with accuracy for want of an establishment of the various departments; but it will probably equal the expense of the late Congress, if you conceive the members of the Legislature to be paid out of the Federal Treasury; add to this the sums stated to be arrearages by an estimate I have seen from

H. OF R.]

Duties on Imports.

[MAY 9, 1789.]

the Board of Treasury, it will amount to 4,597,000 dollars; then the instalments of the foreign debt, together with interest on the same, and interest on the domestic debt, for which provision remains to be made, will probably increase it to 8,000,000 dollars. Now, if gentlemen apprehend we shall raise more revenue than that sum within the current year, it will operate as a strong motive upon them to vote for the reduction of the duties; and if gentlemen suppose that the duty is so high upon rum as to convince them it will inevitably be evaded, it will be a sufficient argument to induce them to vote for the present motion.

The collection of our revenue has been compared to the collection of Great Britain; but she collects four shillings sterling per gallon on West India rum, six times as much as we have agreed to, and yet I believe a very unimportant quantity of Jamaica spirit is smuggled into that kingdom. The smuggling trade is mostly carried on from France and the Netherlands, in small vessels, where the risk and insurance is inconsiderable. I believe large vessels are very seldom concerned in such contraband trade, because they hazard more than overbalances every consideration of profit resulting from success. The circumstances of America and Britain are different; America is remote from commercial nations, and European goods that are made dutiable by this law, must generally be imported in vessels of considerable value. If the owner attempts to save a part of the duties, or evade the laws, he will risk the whole, for, I trust, Congress will not neglect any security that may be derived from sufficient penalties upon the violators of the laws. For my part, I have no doubt but the revenue will be faithfully collected; but certainly there are many other articles more liable to objection on this account than rum, yet there was no adverse argument urged against them: therefore, I suppose the committee were satisfied with them as they stand.

Mr. AMES.—The gentleman from Pennsylvania set out with informing us that nothing new had or could be offered on the subject, yet you found, Mr. Chairman, the gentleman had a good deal to say, which I thought new and much to the purpose. As to applying the observation to myself, in common with the advocates for low duties, I shall decline it, only noting that the long discussion which the subject has had, would restrain me from rising on this occasion, more than any remarks of the nature made by the gentlemen from Pennsylvania and Connecticut; but I am actuated by higher motives than a regard to my own feelings, otherwise I should come reluctantly forward to press arguments which the committee may be fatigued with listening to. But I feel such strong impressions on my mind, with regard to the effects our impost law is likely to produce, that I cannot pass it over with a silent vote. I must admonish gentlemen, that the events which may result from our present measures are of the

most alarming nature. When I was up before, I endeavored to show the degree of power the Government could exercise without being charged with an ill administration. I shall now proceed briefly to consider the arguments used in reply to what has been advanced by the advocates for moderate duties. I believe it is a good rule to judge of the strength of a cause by the arguments used to defend it; and here I must take the liberty of saying, that the gentlemen on the other side of the question have adduced not one to support their opinion that has carried conviction to my mind. I consider that, by a decision of this question, the good which the new Government is expected to produce may be rendered problematical. Though I am fully impressed with the necessity there is for revenue to supply the public expenses, yet I cannot believe we are likely to obtain more by heavy duties than by temperate ones, and it is to this point which my arguments tend. I do not believe that in either case we shall procure fully sufficient to supply the public demands. If we have to procure 8,000,000 dollars; I venture to say, not near the half could be raised by an impost system; but admitting that it could by a high scale of duties for the first year, it could not be done in the subsequent ones. Now, I regard this as a permanent system of revenue, rather than a productive one; if it is laid high, you will find your collection annually diminish. Now, will any Government take such measures in gathering in its harvest, as to ruin the soil? Will they rack-rent their tenants in such a manner as to deprive them of the means of improving the estate? Such can never be the policy of this enlightened country. We know, from the fundamental principles of republics, that public opinion gives the tone to every action of the Government—the laws ought to correspond with the habits and manners; nay, I may almost add, wishes of the people. Well, Mr. Chairman, we are told a tax upon rum is popular; I will agree with the gentlemen; but still a high duty will induce people to run it, and though the consumer may pay the tax without complaining, yet it will go into the pockets of individuals who defraud your revenue. Gentlemen have complained that we do not offer a substitute for what we find fault with. I will endeavor to explain a system I would place in the room of this. I would reduce the duties generally so low as to hold out no encouragement to smuggling; in this case, it is more than probable, the amount of the impost, at the end of one year, would exceed the collection under the present rate. By giving this proof of moderation and wisdom, we should obtain the public favor and confidence; the Government would be acquiring strength, its movements would be more certain, and we could in every subsequent year extend the system, and make the whole productive; then it would be in the power of Government, by aids, to improve our agriculture, manufactures, and commerce. Our imports are now very great; by the increase of

MAY 9, 1789.]

Duties on Imports.

[H. OF R.]

our commerce, we shall probably find our revenue produce twice as much seven years hence as it can be expected to do at present.

The duty on West India rum is moderate and popular, say gentlemen; it is not the interest of Massachusetts that it should be reduced; so I am arguing against the interest of the State I have the honor to represent. The higher the duty on West India rum, the more country rum will be used; but I should sacrifice the sacred trust deposited in my hands, if I were to be actuated by a local motive of this nature. The higher the duty, the more officers must be multiplied, the more guards must be employed, the more troops must be kept in pay, for the suppression of clandestine trade. Under high duties, the people will pay much, the Government receive little. Will they not, then, justly complain of the useless burthens you have imposed? Useless I call them, unless Government have in contemplation to make them conducive to oppress and injure their constituents. If you punish severely the breach of your laws, will not the people combine against them? Will it not be an additional source of dissatisfaction, that the attempts to relieve them are unsuccessful? If gentlemen consider this subject seriously, they will see cause to be alarmed. Who, in this case, can you apply to for support? Not to the people, they want an alleviation of their miseries; you have, then, nothing left but the impotency of a Government not sufficiently matured to support itself.

Gentlemen say that the funds to be produced by the proposed impost are insufficient for the public demands: if so, why not stop somewhat shorter? If we must have recourse to some other mode of obtaining revenue, let us divide the burthen, and not destroy one means by loading it too heavily; if we do, the other means will not only have its own proportion to sustain, but the accumulation of its weakened fellow. Or, do gentlemen suppose they will clear the United States of incumbrances by one effort? They do not. Why are we to grasp at so much in this way? It would be much better to call in the aid of other taxes and excises, than, by overloading, depress one of the most capable and valuable funds in our possession. Under the British Government, they have excise, stamp duties, impost, malt, and land-tax, from which to defray their expenses; why should we endeavor to do that with a single fund, when we have more in our power?

The gentleman from Pennsylvania (Mr. FRIZZIMONS) has mentioned the great probability there is of getting a great duty from this article, because the consumption is more extensive in the United States than in any other part of the world; but this circumstance will furnish a strong inducement to smuggle. He says there is but a small quantity of rum smuggled into England. Gentlemen no doubt consider, that Great Britain is an island well watched; her cutters and custom-house boats are ever on the look-out; but, with all these

guards, and the advantage of her insular situation, she is unable to prevent smuggling.

It has been remarked; that under the State laws, experience has taught us that such duties as the bill has in contemplation can be collected; and the gentleman says, if they be collected under the State laws, they can be collected under this Government. If they have been able to collect high duties in Virginia, it is because their trade is confined to enter at one channel. But it is not so with the Eastern States; there every attempt to raise high duties has proved ineffectual; and the universal opinion there is, that five per cent. would be more productive of revenue than fifty. This is not mere matter of opinion, as has been said, but is demonstrable from facts.

The principle of taxation is to produce the greatest sum of money with the greatest ease to the community. If a gentleman in trade has on hand a cargo of rum, he is able to afford it at a less price than the person who imports it subject to these duties; therefore, the latter will be under the necessity of smuggling, or storing his commodities, for he cannot afford to sell at a loss. A gentleman has mentioned, that if we do not succeed in the collection of these duties, we may lower them. But will any gentleman say, that if we lose our duty by the establishment of a system of smuggling, we shall not continue to lose after the law shall be repealed, and a lower rate of duties is imposed? If gentlemen depend upon this fund alone, I think they ought not to strain it too much; though I do not know why we should not take to our aid an excise duty; it certainly is not unpopular as it respects the distillation of spirits. If I were an enemy to the constitution, I should be an advocate for high duties; because it would disgust the people, and render the Government unpopular; but, as I am a sincere friend to the Government now established, and desire its perpetuity, I am against any measure which I think will endanger its existence.

MR. MADISON.—Let us compare the probable amount of the revenue proposed to be raised by this system, with what is raised in Great Britain, and we shall be apt to infer that they are not so oppressive as gentlemen seem to insinuate. Taking the highest estimate that I have heard mentioned, and it will not produce three millions of dollars. The population of the United States exceeds three millions of souls, hence the tax does not amount to one dollar per head. Great Britain, on the highest estimation, does not contain eight millions of inhabitants, and has an annual revenue to provide of thirteen millions sterling. It is true, she has recourse to other means besides an impost for the purpose of obtaining such a revenue; but those other means are certainly more objectionable in that country, and would be much more so here. Each individual of that kingdom pays eight times as much as is required by the United States; now, where is the propriety of making a comparison between them?

Mr. BALDWIN asked if the Government of the United States of America was four or five times worse to be administered than the Governments in Europe? Whether the public opinion was four or five times more unfavorable to such an administration? If these questions are answered in the affirmative, then the inferences which gentlemen have drawn, of the impracticability of collecting the duties laid in the bill, are just. But this is not allowing the General Government the common chance of executing its laws. If it were the worst Government on earth, it might be allowed a chance of doing one quarter of what others perform. If we find by experience, that we are too weak to execute a system which is so much easier than other nations have adopted, it may be proper to alter it. We shall be better able to judge how far we are likely to succeed, when the bill for the collection of the revenue is brought forward. Such a bill is now in the hands of a committee, and it is to be hoped, when they report it, it will be found sufficient to insure the collection; till then, it will be best to continue the rate as it stands.

Mr. BODINOT.—When we consider the arguments of gentlemen on both sides of this question, we shall find they do not differ so much as, on a superficial view, gentlemen may be led to imagine. It is agreed, that a revenue must be obtained adequate to our wants; but some gentlemen think we shall not receive a greater sum, because we lay a high duty; in this opinion I am with them. I think the present is a favorable time to lay an impost duty, and expect very considerable aid from the public spirit; but I am in favor of a low duty, because it would do nothing to check that spirit. If we lay high duties, and a man finds smuggling the most profitable business he can follow, we shall have to contend with private interest. If we lay a light duty of thirty or forty per cent., the temptation will be too strong for resistance, and the sum collected may not amount to ten per cent. on the whole importation; whereas, if we lay twenty or fifteen per cent. the whole may probably be collected, and the treasury be better filled, because it does not hold out so strong an inducement to evade the payment of the duties.

Another objection has been stated, which is of great weight: a system of high duties will necessarily engage us in a system of drawbacks. If we are forced into this measure, it will be a great injury to the revenue.

We ought also to consider the inconvenience to which high duties will subject our merchants. It is a common case in America, that our mercantile capitals are limited. Gentlemen engaged in commerce can ill spare so large a proportion in the payment of duties.

It has been mentioned by gentlemen, that Great Britain collects four shillings sterling per gallon on rum; yet she is exposed to great difficulties in obtaining it. But I ask gentlemen, whether Great Britain ever laid such a high du-

ty in the first instance, as we are about to impose? I believe they did not: they began, I apprehend, with moderate duties, and increased them as circumstances authorized, when the people became habituated to the imposition. This is the very principle I wish to adopt, and show the world that our conduct is founded in wisdom, propriety, and experience. If we shall discover our mistake in laying high duties, and are driven by necessity to reduce them, such measures will operate to the injury of the fair trader; whereas, if we increase them by degrees, it will be rather favorable to their interest than otherwise; at all events, it will injure none.

If a sense of the committee could be obtained on a general reduction of ten or fifteen per cent. on the rate the articles now stand at, I should be glad to vote in favor of such a motion; but I could not approve of reducing the article of rum alone, because I do not think it charged out of proportion with the others.

Mr. JACKSON differed from his colleague, (Mr. BALDWIN.) He thought, although the British laid four shillings on rum, they did not collect it; and that their custom-house establishments were so expensive, as to leave a mere trifle for the net produce of the impost duty. If America employed such a host of revenue officers as to secure the payment of high duties, there would be very little left, after compensating their services, to supply the federal treasury.

Mr. WADSWORTH desired gentlemen to consider, that the citizens of the United States owned vessels as well calculated for smuggling, as any that were employed between the Netherlands and England; therefore, they had little more security against smuggling than Great Britain.

Mr. JACKSON.—It was well observed by the honorable gentleman from Connecticut, (Mr. WADSWORTH,) that America has vessels well adapted for smuggling: I can declare it, from my own knowledge, to be the fact. It is not, Mr. Chairman, the large vessels coming off long voyages that we are to apprehend danger from; it is our coasters, small vessels constantly coming in and going out; these can run goods from foreign ports adjacent to the United States; they are best acquainted with the unfrequented parts, where they can deposit their cargoes with safety, and will make use of these advantages to defraud your revenue.

With regard to the equity of the impost system, I conceive direct taxation will be more equitable. We, in the Southern States, shall then pay in proportion to our numbers; but under this law we shall contribute much more.

Gentlemen talk of improving the morals of the people by taxation. For my part, I conceive revenue has nothing to do with the morals of the people; therefore, such considerations have no weight on my mind. All that I contemplate is, drawing as much money as we can with equity; and here I believe more can be ob-

MAY 9, 1789.]

Duties on Imports.

[H. OF R.]

tained by a less impost than by a greater; therefore, I am in favor of reducing the duties. It will likewise be more honorable to the Government to begin gradually and win the affections of the people, rather than disgust them by oppressive measures; for if we lose their confidence, we lose our power and authority.

Mr. GERRY.—It appears to me, that gentlemen place their arguments on the name of high duties, rather than on principle; for if they were certain that the energy of Government would effect all they aspire at, then it would follow, that we have nothing more to do than to name the sum we want. But if these ideas are not well supported, the superstructure they have raised upon them must fall to the ground. The energy of your Government depends upon the approbation of the people. No doubt the citizens of the United States will support the Government they have adopted, so long as they approve the measures it pursues, but no longer. Gentlemen trust much, on this occasion, to the co-operation which they expect from their constituents; but I would wish them to examine this argument. These duties are to be collected from the several States into which certain goods are imported. If the people of Massachusetts shall conceive any particular duty peculiarly oppressive on them, they will seek to evade it. This opens a door for smuggling all the other articles.

I conceive gentlemen to be mistaken with respect to the effects which high duties will produce on the mercantile interest. I think there cannot be a doubt but they will be obliged to smuggle; if they mean to continue their business, their capital will be insufficient for the purposes of commerce and the payment of high duties. Gentlemen will not draw knowledge from the experience of Great Britain; therefore, it is unnecessary to adduce her example. But let us see what we are taught by the practice of our own States. Massachusetts drew a very considerable revenue from an impost; she lately tried to increase it by doubling the duties; but, instead of doing so, they found the revenue lessened, and they were obliged to alter what they had so injudiciously attempted. I am willing to suppose with gentlemen, that the Government is invested by the constitution with sufficient energy to carry any regulation of this kind into effect; but is this the time to try the energy of your Government, when your commerce is struggling with every kind of difficulty and embarrassment? Formerly our merchants were able to extend their operations by the means of an established credit in Britain; but unfortunately this is no longer the case. How, then, is it possible they can continue their trade when you lop off another part of their capital? Besides, as was said by the worthy gentleman from Virginia, (Mr. BLAND,) there is not money enough in the United States to pay the duties. I believe it is well known, that our commerce is greatly distressed by the universal want of specie; there has not been

less in circulation for many years than there is at this time. Gentlemen who have property cannot convert it into money; then how will the merchant be able to raise cash for the payment of duties equal to thirty or forty per cent. on his capital? These are serious and alarming circumstances, and such as prove to my mind that the commerce was never less able to bear a high impost than at present, nor ever stood in greater need of the fostering hand of Government for its support. If gentlemen are convinced of the truth of these observations, and they are so notorious that they cannot have escaped the knowledge of any one, they will see the necessity of turning their attention to the encouragement of navigation and trade, rather than think of drawing an oppressive revenue from them.

When gentlemen compare these duties with those collected in Great Britain, they ought to consider that the mercantile capital in this country bears no kind of proportion to the capital of that kingdom. When gentlemen tell us that England raises four times as much by way of impost, do they not know that the capital engaged in the commerce of that nation is ten times as great as in America? If they admit this, then it follows that we cannot pretend, with equal ease, to levy a quarter of what is there collected.

I do not pretend to deny the necessity we are under of raising revenue, or that an impost is the most certain and agreeable means in our power; but I contend against straining the duties so high as to make them burthensome, and occasion the establishment of a clandestine trade, which will prove destructive of the end we aim at.

Mr. MADISON submitted, whether the burthen would not operate more on the Southern States than the Northern. The duties could be collected in the Middle States, this was proved by the experience of some years; for they had collected in those States, in many instances, duties nearly equal to what were proposed. In the Eastern States, it was the interest of the manufacturers to see the duties were well collected; they had been imposed to favor their interests. The distillers would exert themselves in aiding the Government to collect the duty on foreign rum, because it particularly interfered with country rum; from hence he concluded that the impost could be collected with tolerable certainty even in that country most convenient for carrying on a clandestine trade.

Mr. AMES contended that it would be the particular interest of one set of men to evade the payment of the duties. As mankind was governed by interest, it required all the attention of the Government to prevent a breach of the law; because, when the banks and bulwarks of defence were once broken down, the full tide of clandestine commerce would overflow the country. Gentlemen recollected the circumstances which attended the depreciation of the

late continental money. Some persons, from motives of interest or necessity, first made a distinction between it and specie, and although every exertion was made by the patriotic among our citizens to prevent the alarming evil, yet every thing was insufficient; they were at length obliged to acquiesce in measures they could not prevent. This was the case on that occasion, and will be the case whenever our laws or regulations run counter to private interest.

Mr. SHERMAN.—The gentleman from Massachusetts (Mr. AMES) has said, that because we cannot raise the whole sum necessary to supply our wants, we should be content to stop half way. I know we shall not be able to obtain money enough by the impost to pay off our whole debt, but then I wish to raise as much as possible in this way. I believe the people are able to pay as much as the necessities of the Government require; if they are not, we shall never restore the public credit, which is one of the chief ends of our appointment. I believe they are not only able but willing to contribute sufficient for this purpose. The resources of this country are very great if they are properly called into action; and although they may not be so great as those of Britain, yet it should be remembered, that nation has occasion for twelve times as much revenue as the United States.

Gentlemen have had recourse to popular opinion in support of their arguments. Popular opinion is founded in justice, and the only way to know if the popular opinion is in favor of a measure, is to examine whether the measure is just and right in itself. I think whatever is proper and right, the people will judge of and comply with. The people wish that the Government may derive respect from the justice of its measures; they have given it their support on this account. I believe the popular opinion is in favor of raising a revenue to pay our debts, and if we do right, they will not neglect their duty; therefore, the arguments that are urged in favor of a low duty will prove that the people are contented with what the bill proposes. The people at this time pay a higher duty on imported rum than what is proposed in this system, even in Massachusetts; it is true, it is partly laid by way of excise, but I can see no reason against doing it in this way as well as the other.

The article of molasses is a good deal used in that country, but I do not think it so much a necessary of life but that every citizen could live without it; and I believe the people would be very well contented to contribute their proportion of the public expenses by a small duty on that article. Those who consume foreign luxuries are generally able to pay for them. When gentlemen have recourse to public opinion to support their arguments, they generally find means to accommodate it to their own; the reason why I think public opinion is in favor of the present measure is, because this regulation in itself is reasonable and just.

Some gentlemen think a system of moderate

duties will be capable of improvement; every subsequent year they may be increased, and so become more and more productive. If we were on the eve of a war, in which it is presumable our expenses would increase, such policy might be proper; but as we want it only to pay a certain debt, the demand will decrease, and we shall have less occasion for an increase of revenue.

I think if we should not support public credit now we have the ability, the people will lose all confidence in the Government. When they see public bodies shrink from their duty, what can be expected but they will neglect theirs also? It cannot be for the interest of the people of the United States that they should continue to pay a high interest, and suffer an accumulation of the principal of the national debt till some distant period. Will any gentleman assure us that the people will then be better able to pay it off than at present? Have they any certain evidence that we shall grow richer as we delay the establishment of our credit and the payment of our debts? I think they have not; therefore it is best to get out of debt as fast as possible, and while we have the command of funds amply sufficient for the purpose.

Mr. LAWRENCE.—It has been intimated by gentlemen in favor of high duties, that it will limit the consumption of foreign articles; if this be the case, the quantity imported will be lessened; if it is our object to raise revenue, it is certainly unwise to destroy the object from which the revenue is to be collected. It is supposed the amount of the duties will be insufficient to answer the public wants; and yet the public creditors have great expectations from this resource. Let us therefore be careful how we destroy it; if revenue is our primary object, and the other considerations but secondary, we should do nothing to operate against that principle.

Mr. MADISON.—It does not follow, because it will in some degree limit the consumption, that we ought not to lay a high duty on rum; if it has that effect, it will be an ample compensation for the loss of revenue; but probably, as we extinguish our debt, we shall have the less occasion for the revenue itself.

Mr. GOODhue.—The object of the committee is to raise revenue, I take it. This would, perhaps, be best done by reducing the duty, but I am not inclined to reduce it so low as some gentlemen seem to desire: it may be reduced a few cents, and therefore I move to insert ten instead of twelve.

The question was taken for striking out the twelve cents, as it stood in the bill, on all spirits of Jamaica proof, imported from the dominions of nations in alliance with the United States, in order to leave it blank, to be filled up hereafter.

The House divided on the question; 19 in favor of the motion, and 26 against it.

So it passed in the negative.

Adjourned.

MAY 11, 1789.]

On Titles.

[H. OF R.]

MONDAY, May 11.

A committee, consisting of Messrs. WHITE, SCOTT, and STURGIS, was appointed to confer with the committee appointed by the Senate, to view and report in what manner the rooms in the City Hall shall be appropriated.

ON TITLES.

The House took into consideration the message from the Senate, communicated on Saturday last, respecting the disagreement of the Senate to the report of a joint committee, on the subject of annexing titles to the offices of President and Vice President.

Mr. PARKER moved a resolution to the following effect:

Resolved, That this House having, on Tuesday last, adopted the report of their committee appointed to confer with a committee of the Senate, stating, "That it is not proper to annex any style or title to the respective styles or titles of office expressed in the constitution;" and having, in their address to the President of the United States on Friday last, proceeded to act pursuant thereto, deem it improper to accede to the proposition made by the Senate, as communicated by their order of the 9th instant, for appointing a committee to confer with a committee of this House, in considering and reporting under what title it will be proper for the President of the United States in future to be addressed.

Mr. PAGE seconded the motion, observing, that in his opinion, the House had no right to interfere in the business; the constitution expressly prescribed the power of Congress as to bestowing titles. He did not conceive the real honor or dignity of either of those situations to consist in high sounding titles. The House had, on a former occasion, expressed their disapprobation of any title being annexed to their own members, and very justly too. After having so fully and explicitly declared their sentiments against such measures, he thought it behooved them to be explicit with the Senate. Indeed, he felt himself a good deal hurt, that gentlemen on this floor, after having refused their permission to the clerk to enter any more than their plain names on the journal, should be standing up and addressing one another by the title of "the honorable gentleman." He wished the practice could be got over, because it added neither to the honor nor dignity of the House.

Mr. LEE approved of the appointment of a committee to confer with a committee of the Senate, as the mode due to the occasion; but he was against adding any title.

Mr. TUCKER.—When this business was first brought before the House, I objected to the appointment of a committee to confer with a committee of the Senate, because I thought it a subject which this House had no right to take into consideration. I then stood single and unsupported in my opinion, but have had the pleasure to find since, that some gentlemen on this floor agree that I was right. If I was then right, I shall, from stronger reasoning, be right

now in opposing the appointment of another committee on the same subject. The joint committee reported, that no titles ought to be given; we agreed to the report, and I was in hopes we should have heard no more of the matter. The Senate rejected the report, and have now sent us a resolution, expressive of a determination to give a title, to which they desire our concurrence. I am still of opinion that we were wrong in appointing the first committee, and think that we shall be guilty of greater impropriety if we now appoint another. What, sir, is the intention of this business? Will it not alarm our fellow-citizens? Will it not give them just cause of alarm? Will they not say, that they have been deceived by the convention that framed the constitution? That it has been contrived with a view to lead them on by degrees to that kind of government which they have thrown off with abhorrence? Shall we not justify the fears of those who were opposed to the constitution, because they considered it as insidious and hostile to the liberties of the people? One of its warmest advocates, one of the framers of it, (Mr. Wilson, of Pennsylvania,) has recommended it by calling it a pure democracy. Does this look like a democracy, when one of the first acts of the two branches of the Legislature is to confer titles? Surely not. To give dignity to our Government, we must give a lofty title to our chief magistrate. Does the dignity of a nation consist in the distance between the first magistrate and his citizens? Does it consist in the exaltation of one man, and the humiliation of the rest? If so, the most despotic Government is the most dignified; and to make our dignity complete, we must give a high title, an embroidered robe, a princely equipage, and, finally, a crown and hereditary succession. Let us, sir, establish tranquillity and good order at home, and wealth, strength, and national dignity will be the infallible result. The aggregate of dignity will be the same, whether it be divided among all, or centred in one. And whom, sir, do we mean to gratify? Is it our present President? Certainly, if we expect to please him, we shall be greatly disappointed. He has a real dignity of character, and is above such little vanities. We shall give him infinite pain; we shall do him an essential injury. We shall place him in a most delicate and disagreeable situation; we shall reduce him to the necessity of evincing to the world his disapprobation of our measures, or of risking some diminution of that high reputation for disinterested patriotism which he has so justly acquired. It is not for his gratification; for whose, then, are we to do this? Where is the man among us who has the presumption and vanity to expect it? Who is it that shall say—for my aggrandizement three millions of people have entered into a calamitous war; they have persevered in it for eight long years; they have sacrificed their property, they have spilt their blood, they have rendered thousands of families wretched

H. OF R.]

On Titles.

[MAY 11, 1789-

by the loss of their only protectors and means of support? This spirit of imitation, sir, this spirit of mimicry and apery will be the ruin of our country. Instead of giving us dignity in the eye of foreigners, it will expose us to be laughed at as apes. They gave us credit for our exertions in effecting the revolution, but they will say that we want independence of spirit to render it a blessing to us.

Mr. TRUMBULL moved for the appointment of a Committee of Conference, to consider on the difference which appeared in the votes of the two Houses upon the report of the joint committee.

Mr. BURKE hoped the House would express their decided disapprobation of bestowing titles in any shape whatever; it would be an indignity in the House to countenance any measures of this nature. Perhaps some gentlemen might think the subject was a matter of indifference; but it did not appear to him in that light. The introduction of two words which he could mention into the title of these officers, would alter the constitution itself; but he would forbear to say any thing further, as he had a well-grounded expectation that the House would take no further notice of the business.

Mr. GOODHUE thought the conference unnecessary, because the House had not only adopted the report of their committee, but proceeded to act in pursuance thereof.

Mr. SENEY joined the last gentleman in sentiment, and thought it an unnecessary waste of time to give the subject any longer discussion.

Mr. MADISON.—I may be well disposed to concur in opinion with gentlemen that we ought not to recede from our former vote on this subject, yet at the same time I may wish to proceed with due respect to the Senate, and give dignity and weight to our own opinion, so far as it contradicts theirs, by the deliberate and decent manner in which we decide. For my part, Mr. Speaker, I do not conceive titles to be so pregnant with danger as some gentlemen apprehend. I believe a President of the United States, clothed with all the powers given in the constitution, would not be a dangerous person to the liberties of America, if you were to load him with all the titles of Europe or Asia. We have seen superb and august titles given, without conferring power and influence, or without even obtaining respect. One of the most impotent sovereigns in Europe has assumed a title as high as human invention can devise; for example, what words can imply a greater magnitude of power and strength than that of High Mightiness? This title seems to border almost upon impiety; it is assuming the pre-eminence and omnipotence of the Deity; yet this title, and many others cast in the same mould, have obtained a long time in Europe, but have they conferred power? Does experience sanction such an opinion? Look at the republic I have alluded to, and say if their present state warrants the idea.

I am not afraid of titles, because I fear the

danger of any power they could confer, but I am against them because they are not very reconcilable with the nature of our Government or the genius of the people. Even if they were proper in themselves, they are not so at this juncture of time. But my strongest objection is founded in principle; instead of increasing, they diminish the true dignity and importance of a republic, and would in particular, on this occasion, diminish the true dignity of the first magistrate himself. If we give titles, we must either borrow or invent them. If we have recourse to the fertile fields of luxuriant fancy, and deck out an airy being of our own creation, it is a great chance but its fantastic properties would render the empty phantom ridiculous and absurd. If we borrow, the servile imitation will be odious, not to say ridiculous also; we must copy from the pompous sovereigns of the East, or follow the inferior potentates of Europe; in either case, the splendid tinsel or gorgeous robe would disgrace the manly shoulders of our chief. The more truly honorable shall we be, by showing a total neglect and disregard to things of this nature; the more simple, the more republican we are in our manners, the more rational dignity we shall acquire; therefore, I am better pleased with the report adopted by the House, than I should have been with any other whatsoever.

The Senate, no doubt, entertain different sentiments on this subject. I would wish, therefore, to treat their opinion with respect and attention. I would desire to justify the reasonable and republican decision of this House to the other branch of Congress in order to prevent a misunderstanding. But that the motion of my worthy colleague (Mr. PAUKER) has possession of the House, I would move a more temperate proposition, and I think it deserves some pains to bring about that good will and urbanity, which, for the despatch of public business, ought to be kept up between the two Houses. I do not think it would be a sacrifice of dignity to appoint a Committee of Conference, but imagine it would tend to cement that harmony which has hitherto been preserved between the Senate and this House; therefore, while I concur with the gentlemen who express, in such decided terms, their disapprobation of bestowing titles, I concur also with those who are for the appointment of a Committee of Conference, not apprehending they will depart from the principles adopted and acted upon by the House.

Mr. WHITE did not approve of a Committee of Conference, because the House had already determined the question by unanimously adopting the report of the joint committee. He did not think that it was worth while having the subject longer contested; he was satisfied both the spirit of the constitution and the spirit of the people disapproved of titles.

Mr. BLAND would be careful of giving umbrage to the Senate, because he wished that the unanimity and moderation which subsisted between the two Houses might continue. He

MAY 11, 1789.]

On Titles.

[H. OF R.]

considered the present as a very proper opportunity for the appointment of a Committee of Conference. The two Houses had disagreed on the report of their committees; it was proper, therefore, that they should mutually assign their reasons, in order to bring about an agreement to the same resolution. He hoped, therefore, that such a committee would be appointed, though he had no expectation that the House would give up an opinion they so justly and decidedly entertained respecting titles.

Mr. PARKER wanted to know what was the object of gentlemen in the appointment of a Committee of Conference? The committee could only say that the House had refused their consent to annexing any titles whatever to the President and Vice President; for certainly the committee would not descend into the merits of a question already established by the House. For his part, he could not see what purpose was to be answered by the appointment of such a committee. He wished to have done with the subject, because while it remained a question in the House, the people's minds would be much agitated; it was impossible that a true republican spirit could remain unconcerned when a principle was under consideration, so repugnant to the principles of equal liberty.

Mr. SHERMAN thought it was pretty plain that the House could not comply with the proposition of the Senate. The appointment of a committee, on the part of the House, to consider and determine what style or title will be proper to annex to the President and Vice President, would imply that the House meant that some style or title should be given. Now this they never could intend, because they have decided that no style or title ought to be given; it will be sufficient to adduce this reason for not complying with the request of the Senate.

Mr. JACKSON wondered what title the Senate had in contemplation to add dignity or lustre to the person that filled the presidential chair. For his part, he could conceive none. Would it add to his fame to be called after the petty and insignificant princes of Europe? Would styling him His Serene Highness, His Grace, or Mightiness, add one title to the solid properties he possessed? He thought it would not; and therefore conceived the proposition to be trifling with the dignity of the Government. As a difference had taken place between the two Houses, he had no objection to a conference taking place. He hoped it might be productive of good consequences, and that the Senate might be induced to follow the laudable example of the House.

Mr. MADISON was of opinion, that the House might appoint a Committee of Conference without being supposed to countenance the measure. The standing rule of the House declared, that, in case of disagreeing votes, a Committee of Conference should be appointed. Now, as the case provided for in the rule had actually happened, he inferred that it was proper to proceed in the

manner directed by the rules of the House. The subject was still open to discussion, but there was little probability that the House would rescind their adoption of the report. I presume gentlemen do not intend to compel the Senate into their measures; they should recollect that the Senate stand upon independent ground, and will do nothing but what they are convinced of the propriety of; it would be better, therefore, to treat them with delicacy, and offer some reasons to induce them to come into our measure. He expected this would be the result of a conference, and therefore was in favor of such a motion.

Mr. SENEY intended nothing disrespectful to the Senate, but he conceived, after having adopted the report of the committee, it would derogate from their own dignity to rescind a unanimous resolution; and for what other purpose could a conference be appointed by the House? They must certainly suppose that there might be ground for changing their opinion. Nothing of this kind appeared to him, and therefore he was of opinion, it would be a useless consumption to waste any more time about it.

Mr. CLYMER thought that there was little occasion to add any title to either the President or Vice President. He was very well convinced, by experience, that titles did not confer power; on the contrary, they frequently made their possessors ridiculous. The most impotent Potentates, the most insignificant Powers, generally assumed the highest and most lofty titles. That they do not indicate power and prerogative, is very observable in the English history; for when the Chief Magistrate of that nation bore the simple style of His Grace or Highness, his prerogatives were much more extensive than since he has become His Most Sacred Majesty.

Titular distinctions are said to be unpopular in the United States; yet a person would be led to think otherwise, from the vast number of honorable gentlemen we have in America. As soon as a man is selected for the public service, his fellow-citizens, with liberal hand, shower down titles on him—either excellency or honorable. He would venture to affirm, there were more honorable esquires in the United States than in all the world besides. He wished to check a propensity so notoriously evidenced in favor of distinctions, and hoped the example of the House might prevail to extinguish that predilection which appeared in favor of titles.

Mr. PAGE.—If I thought the motion made by my colleague in the least degree disrespectful, I should not have seconded it. I would be the last man on this floor to treat that worthy body with disrespect; but I believe it cannot be construed to have such a meaning. If we were to let the resolution lie on the table, it would not be disrespectful. But what is the object of the motion? Simply to inform the Senate that we cannot rescind a resolution

H. OF R.]

Duties on Imports.

[MAY 11, 1789.]

adopted in consequence of the report of a joint committee. If the conduct of either House is in the least degree disrespectful, (though I do not conceive it is,) the body who declined adopting the report, after knowing the sense of the other to be in its favor, is the most so.

But on what are a committee to confer? Not upon what title shall be bestowed, because we have no right to enter on the subject; and here I must tell gentlemen I differ from them, when they think titles can do no harm. Titles, sir, I say, may do harm, and have done harm. If we contend now for a right to confer titles, I apprehend the time will come when we shall form a reservoir for honor, and make our President the fountain of it. In such case, may not titles do an injury to the Union? They have been the occasion of an eternal faction in the kingdom we were formerly connected with, and may beget like inquietude in America; for I contend, if you give the title, you must follow it with the robe and the diadem, and then the principles of your Government are subverted.

Mr. LEE moved the previous question, as the best mode of getting rid of the motion before the House: he was supported by a sufficient number. And on the question, Shall the main question be now put? it passed in the negative; and so the motion was lost.

On motion, it was

Resolved, That a committee be appointed, to join with such committee as the Senate may appoint, to confer on the disagreeing votes of the two Houses, upon the report of their joint committee, appointed to consider what titles shall be given to the President and Vice President of the United States, if any other than those given in the constitution.

MESSRS. MADISON, PAGE, BENSON, TRUMBULL, and SHERMAN were the committee elected.

IMPOST BILL.

The House then went into a Committee of the whole on the bill for laying a duty on goods, wares, and merchandises imported into the United States. Mr. PAGE in the chair.

The question on laying a duty on molasses being under consideration:

Mr. TUCKER.—Notwithstanding I am anxious for a reduction of the duties on all the articles in the bill, yet my vote on molasses will be regulated by what the committee shall determine in other cases, as I do not conceive it to be out of proportion. If a general reduction takes place on the other articles, I shall be disposed to make a reduction on this article; but as mine is but a single vote, gentlemen may not be inclined to favor my proposition for a general reduction, in order to gain my assent to a reduction on this particular article.

Mr. GOODHUE was of opinion that the duties were too high for collection; but he did not agree with the gentleman from South Carolina (Mr. TUCKER) that the duty on molasses was rated in proportion to the other articles, and therefore the question, whether molasses, shall be reduced or not, did not depend on a gene-

ral reduction, but on its own bottom; if it was rated too high for collection and proportion, the committee would agree to reduce it.

Mr. FITZSIMONS expected the gentleman from South Carolina would vote in the manner he had pledged himself; he had promised to vote for reducing the duty on molasses if the committee reduced the duty on other articles; now, as they had decided against a reduction, he hoped the gentleman would be in favor of the duty on molasses, as it stood in the bill, and not vote in the manner he had promised.

Mr. TUCKER.—The gentleman last up has certainly misunderstood me. I made no promise. I said my vote would depend upon the reduction of the other articles, but I was indifferent as to rum; I did not consider the State I represented as being either particularly benefited or injured by a duty on rum; and therefore did not urge any arguments in favor of reducing that article, more than I thought it might be proper to preserve the ratio, as fixed by the House, between the several articles. If gentlemen think rum can bear a high duty, and be safely collected, I have no objection to letting it remain. But there are some articles that bear heavily and unequally upon South Carolina; now, I think it my duty to vote in such a manner as to prevent her from bearing an undue proportion of the tax to be collected; I am, consequently, obliged to vote for a high tax on articles used in other States, (if my State is highly taxed) however unequally it may fall. I shall therefore vote so as to endeavor to oblige other States to bear their true proportion of the aggregate sum. I wish to defer any determination on the article of molasses until we have gone through the other articles, that I may know how to vote on this. If gentlemen think my single vote of no consequence, they may proceed; but I may think the duty too high on molasses, and may be disposed to make it five cents, or less, if a reduction is made in the other articles; but I would not be understood to pledge myself for any particular sum.

Mr. AMES thought the gentleman from Pennsylvania (Mr. FITZSIMONS) had misunderstood the gentleman from South Carolina (Mr. TUCKER) respecting his pledging himself to vote in favor of molasses. He believed the gentleman from South Carolina incapable of making any improper accommodation either on this or any other occasion; the subject had never been mentioned to him, nor he believed to any body else, much less could the gentleman's intention be the result of bargain or compromise. For his own part, he would never consent to such a degradation of his rights as a member of the House, as to stipulate for the exercise of his opinion.

Mr. TUCKER.—If the gentleman from Pennsylvania (Mr. FITZSIMONS) supposes that I have bargained to vote for or against any measure, he does me wrong; and if he charges me with such actions, I desire he may state his reasons and explain himself. I did not hear perfectly what he said when he was up before, and therefore

MAY 11, 1789.]

Duties on Imports.

[H. OF R.]

did not refute any improper construction he might have put on my arguments.

Mr. FITZSIMONS had no difficulty in declaring his meaning. He understood, when the article of rum was under consideration, that the gentleman held out a promise to vote for the reduction of the duty on molasses if the committee would agree with him in reducing generally. This promise was not made in a private manner; it was made by the gentleman in his place. He could not recite the particular expression of the gentleman, but he understood from it that the gentleman pledged himself to reduce the duty on molasses, if the gentlemen from the Eastern States would join him in a general reduction.

Mr. TUCKER.—I expressed a wish for a general reduction to take place throughout the whole system; but I never made a promise with regard to a reduction of any particular article.

Mr. SENEY observed, that the discussion of molasses had been deferred when the subject was last before the House, in order to give time for a full investigation; but he conceived that no such reason now existed, in favor of its lying over, and therefore hoped the House would proceed to decide upon it.

Mr. AMES was willing to proceed to the consideration of that subject; he did not wish it deferred to the end of the list, that it might be held over them *in terrorem*; there were several articles in the list, which he did not conceive to be taxed too high for collection, or out of proportion with others, therefore it was likely they would not be reduced. If this was the case, the reduction would not be general, and the gentleman from South Carolina might not think it his duty to favor the reduction of molasses. He wished every article to stand upon its own bottom. If molasses was too high, the committee would lower it; if not, they will continue it at the rate it is, and the business would be done with. If the committee were disposed to proceed, he was ready to take up the subject.

Mr. CARROLL saw no reason for postponing the business at this time. When the subject was suspended on a former occasion, several gentlemen from Massachusetts were absent on business, but it was surely unnecessary now to have any delay. After the repeated discussions it had undergone, he was satisfied gentlemen were prepared for a decision, and he hoped the question might be taken, and the committee proceed to get through the business. Gentlemen should consider the daily loss which the revenue sustained by the delay of this bill; he cautioned them against considering overmuch, and letting slip the opportunity they now had to supply the public wants.

Mr. WADSWORTH would not go over the old ground, and enumerate all the reasons why a reduction of the duty on this article should take place. He satisfied himself with saying it was out of proportion, and too high ever to be collected with certainty; he wished the committee to lower it to three or four cents, and apply to an

excise for the deficiency, not conceiving an excise on distilled spirits to be inconvenient or unpopular.

Mr. AMES was sensible that any further discussion of the present subject was unpleasant, nay, it was painful to the committee; but he had such impressions on his mind with regard to its importance, that he must trespass on them again. On all subjects demonstration is desirable, but there is only one science capable of complete demonstration. Many other sciences admit of different degrees of demonstration; but of all the sciences on earth, the science of politics is the least capable of affording satisfactory conclusions, while it is the one that, from its importance, requires the greatest degree of certainty; because when we are to consider those things which relate to the welfare of nations, it is of consequence, and nothing can be more desirable than that we adopt just principles in order to come at proper conclusions. In this science it is dangerous to adopt the visionary projects of speculators, instead of principle. We ought to be cautious, therefore, in selecting the information upon which we form our system.

He trusted to make it appear in the course of his arguments, that the propriety of the particular measure under discussion depended upon local knowledge, and yet it would be found of national concern. He believed it could be clearly proved to be as much the interest of one part as of another to have the duty reduced.

It was laid down as a principle, that all duties ought to be equal. He believed, if gentlemen gave themselves time for consideration, they would not contend this duty was equal. He said he had made some calculations, which demonstrated the inequality to a very surprising degree. The tax operated in two ways: first, as a tax on a raw material, which increased the price of stock and narrowed the sale; and second, as a tax on an article of consumption. It required the distillation and the consumption to be equal in every part of the Union to render the duty equal in its operation; but no gentleman contended that the consumption or distillation was equal. The gentleman from Virginia said, on a former occasion, that Massachusetts would not contribute her proportion of the national revenue, because her exports were not equal to the Southern States, and of consequence her imports are less; but if this fact is examined, it will be found that she does export in full proportion with the Southern States. Examine her custom-house books and you will find it; but Massachusetts is greatly concerned in navigation, and the wages of her seamen ought to be added to the amount of the profits of her industry. Then if we consider her consumption, we shall find it in proportion also. Admitting the people of New England to live more moderate than the opulent citizens of Virginia or Carolina, yet they have not such a number of blacks among them, whose living is wretched, consequently the average consumption per head will be nearly the same. The

H. OF R.]

Contested Election.

[MAY 12, 1789.]

fact is, that all taxes of this nature will fall generally in proportion to the ability to pay.

Laying a heavy duty on molasses incurs the necessity of allowing a drawback on country rum. By this system we may lose more revenue than we gain; any how, it will render it very uncertain. It is a question of some importance, whether it would not be beneficial to the United States to establish a manufacture, which would be very lucrative. But waiving that consideration, he would ask gentlemen, if there was any propriety in taxing molasses in its raw state with a duty intended to be laid on rum? Certainly this had better be by way of excise. In this mode the revenue would escape fraud by smuggling, which would otherwise be unavoidable. The tax was such a temptation, being thirty per cent. upon its value, that no checks could prevent a clandestine trade being carried on.

Without the molasses trade is continued, the fishery cannot be carried on. They are so intimately connected, that the weapon which wounds the one will stab the other. If by such measures as these we ruin one of the most valuable interests of the United States, will not the people have a right to complain, that, instead of protecting, you injure and destroy their pursuits? He did not mean to say that the people would form unwarrantable combinations; but their exertions to support the Government will be damped; they will look with chagrin on the disappointment of their hopes; and it will add to their vexation, that they have been deceived under the most flattering appearances; for who could conceive that a Government, constructed and adopted in the manner this has been, could ever be administered to the destruction of that welfare which it was formed to support?

He recommended experience as the best guide, and said, that it was decidedly against high duties, particularly on molasses; and concluded with appealing to the justice and wisdom of the committee for a determination on this subject.

Mr. CARROLL would not take up the time of the committee with saying a word on the main subject, but begged them to consider of how much importance it was to the Union to get this bill into operation. If every article was to be again debated in the manner it had already been, he could see no end to the business. Unless gentlemen could advance some new and weighty arguments, he thought the time misspent in recapitulating those that had been unsuccessfully urged twice or three times before.

Mr. MADISON thought the arguments against the duty were inconsistent. He believed the gentlemen in opposition had not replied to an observation he had made, and which was of great force on his mind. The gentlemen all say, that a heavy duty will ruin the distilleries and fisheries, and the people concerned in them; yet they profess themselves willing to lay the same duty, but in two forms instead of one.

Now he would be glad to know if the distilleries and fisheries would not be precisely in the same situation, let which would take place?

On motion, the committee rose, and the House adjourned.

TUESDAY, May 12.

The Speaker laid before the House the petition of Jedediah Morse, stating that he has, at great labor, expense, and risk, compiled and published a geographical and historical treatise of the United States, entitled "The American Geography, or a View of the present Situation of the United States of America," embellished and illustrated with two original maps, and praying that an exclusive right may be secured to him of publishing the same for a limited time.

Also, a petition of a number of the citizens of the State of New Jersey, whose names are thereunto subscribed, in opposition to a petition of sundry other citizens of the said State, complaining of the illegality of the election of Representatives from that State returned to serve in this House.

Mr. CLYMER, from the Committee of Elections, to whom it was referred to take proofs of the facts stated in the petition of David Ramsay, suggesting that William Smith, elected a member of this House, within the State of South Carolina, was, at the time when he was elected, ineligible, by reason that he had not been seven years a citizen of the United States, reported as followeth:

That Mr. SMITH appeared before them, and admitted that he had subscribed, and had caused to be printed in the State Gazette of South Carolina, of the twenty-fourth of November last, the publication which accompanies this report, and to which the petitioner doth refer as proof of the facts stated in his petition; that Mr. Smith also admitted that his father departed this life in the year one thousand seven hundred and seventy, about five months after he sent him to Great Britain; that his mother departed this life about the year one thousand seven hundred and sixty; and that he was admitted to the bar of the Supreme Court in South Carolina in the month of January, one thousand seven hundred and eighty-four.

The Committee also report the following counter proofs, produced by Mr. SMITH, viz: Printed copies of the following acts of the Legislature of the State of South Carolina, viz: An act, entitled "An act to oblige every free male inhabitant of this State, above a certain age, to give assurance of fidelity and allegiance to the same, and for other purposes therein mentioned," passed the twenty-eighth of March, one thousand seven hundred and seventy-eight; an act, entitled "An act disposing of certain estates, and banishing certain persons therein mentioned," passed the twenty-sixth of February, one thousand seven hundred and eighty-two; an act, entitled "An act to alter and amend an act, entitled an act for disposing of certain estates, and banishing certain persons, passed at Jacksonburgh, in the State of South Carolina, on the twenty-sixth day of February, in the year one thousand seven hundred and eighty-two,"

MAY 12, 1789.]

Duties on Imports.

[H. OF R.]

passed in March, one thousand seven hundred and eighty-three; an act, entitled "An act to confer the right of citizenship on aliens," passed the twenty-sixth of March, one thousand seven hundred and eighty-four; also, an ordinance of the Legislature of the said State, entitled "An ordinance to encourage subjects of foreign States to lend money at interest on real estates within this State," passed the twenty-sixth of March, one thousand seven hundred and eighty-four; a certified copy of an extract from an act of the Legislature of that State, entitled "An act for raising and paying into the public Treasury of this State, a tax for the uses therein mentioned," passed the ninth of September, one thousand seven hundred and seventy-nine; and a printed copy of the constitution of South Carolina; also a certificate from John Edwards and William Hort, Commissioners of the Treasury of that State, under their seal of office.

Ordered, That the said report do lie on the table.

The House, according to the order of the day, proceeded by ballot to the appointment of a Sergeant-at-Arms; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of Joseph Wheaton.

Mr. TRUMBULL, from the Committee appointed to confer with any Committee from the Senate, respecting the future disposition of the papers in the office of the late Secretary of the United States, made a report; which was read, and ordered to lie on the table.

A message from the Senate informed the House, that they had appointed a Committee to confer with the Committee of this House on the disagreeing votes of the two Houses on the subject of titles.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole, Mr. PAGE in the Chair, on the *Impost bill*.

The article of molasses being still under consideration:

Mr. AMES wished to reply to the observation made yesterday by the gentleman from Virginia. Does that gentleman, said he, recollect, if we lay an excise, we prevent the burthen from being imposed upon the poor for their subsistence, as molasses, in the raw state, will be lightly taxed? In the next place, it is more favorable to the importers of that article than the impost; it does not require so large a proportion of their capital to be advanced in payment of duties, nor do they run the risk of bad debts, because it may be so regulated that the retailer shall secure the duty. Another reason is, it will save the expense of a numerous host of custom-house officers, tide-waiters, &c. These considerations proved, that if the excise was no better than an impost, it was no worse; and as the duty would be better collected, and give less reason for smuggling, which, above all things was dangerous to the revenue, it was sufficient to warrant the committee in giving the excise duty a preference.

Mr. GOODHUE would not trouble the House

long on the subject; but begged leave to repeat the manner in which the molasses trade was connected with the fisheries, and the fisheries with the navigation; that, if the first is injured, the other two are wounded through its side. About three-fifths of all the fish that are put up for that market, are of an inferior quality, and would not sell elsewhere. The French would not permit us to carry them there, but because we take their molasses in exchange; they will not let their colonies send the molasses to France, lest it interfere with their brandy. Now, any impediment to the exportation of molasses, will prevent the exportation of fish; if we cannot export the fish, for what purpose shall we continue our fisheries? And if they are given up, how are we to form seamen to man our future navy?

Mr. MADISON said his mind was incapable of discovering any plan that would answer the purpose the committee have in view, and not produce greater evils than the one under consideration. He thought an excise very objectionable, but as no actual proposition for entering into such a system was before the committee, he forebore to say any thing further about it. He admitted an excise would obviate in part some of the difficulties; but he did not think the answer given to his argument altogether satisfactory; yet there was another argument he urged on a former occasion remaining unanswered—it was, that, at this moment, the fisheries, distilleries, and all their connexions, were laboring under heavier duties than what is now proposed; true, the duty is collected in a different mode, but it affects the consumer in the same manner. The gentlemen have said, to be sure, that the duty is evaded; but if half is collected, it amounts to more than six cents per gallon.

It is said that a tax on molasses will be unpopular, but not more so than a tax on salt. Can gentlemen state more serious apprehensions in the former than the latter case? yet the committee did not forego a productive fund, because the article was a necessary of life, and in general consumption. If there is the disposition that is represented for people to complain of the oppression of Government, have not the citizens of the Southern States more just ground of complaint than others? The system can only be acceptable to them, because it is essentially necessary to be adopted for the public good.

Gentlemen argue, that a tax on molasses is unpopular, and prove it by experience under the British Government. If this is to be adduced as a proof of the popularity of a measure, what are we to say with respect to a tax on tea? Gentlemen remembered, no doubt, how odious this kind of tax was thought to be throughout America; yet the House had, without hesitation, laid a considerable duty upon it. He did not imagine that a duty on either of those articles, was in itself objectionable; it was the principle upon which the tax was laid that

H. OF R.]

Duties on Imports.

[MAY 12, 1789.]

made them unpopular under the British Government.

It is said that this tax is unjust; now, he had not a single idea of justice, that did not contradict the position. If it be considered as it relates to rum, he was certain the consumers of foreign rum paid a larger proportion of revenue into the Treasury than the consumers of country rum; they paid more than equal distributive justice required; if it was considered as it respected molasses, there would appear no injustice. Molasses was consumed in other States; but if it was not, sugar was used in its stead, and subjected to a duty full as high as that on molasses. But dismissing both these considerations, and even admitting the whole weight to fall upon the Northern States, it would not be disproportioned, because, in the long list of enumerated articles subject to a high duty, they imported few or none; indeed, the articles were pretty generally taxed for the benefit of the manufacturing part of the northern community; see loaf sugar, candles, cheese, soap, &c. He hoped gentlemen would not infer from this observation, that he thought the encouragement held out by the bill to manufactures improper; far from it; he was glad to see their growing consequence, and was disposed to give them every aid in his power. From this view of the subject, he was inclined to adhere to the bill, and not make any reduction.

Mr. GERRY hoped the committee would not consider the subject as finally decided; he thought it deserving of further investigation, and expected the committee would be satisfied of the propriety of making some reduction. He felt a concern at being obliged to extend the discussion, but his duty impelled him to oppose a measure he conceived injurious to his country.

He meant to consider the subject in two points of view: First, he would begin with premising, that the business of finance was a business of difficulty and delicacy; in Europe, it is considered in this light, and requires to be conducted by the most able and enlightened men. In America, we had hitherto but little experience in this science, and perhaps not more than one man is qualified to fill such an important station as financier; surely, then, Congress ought to be well assured of the justice and propriety of the principle they adopt; they ought to have sufficient understanding and information to be able to demonstrate that their calculations are right. But we are defective in documents to guide us on our way, we are going onward blindfolded, and have seriously to apprehend evils from every step. Nations, who are well informed on all these points by the experience of ages, never attempt to lay a duty, in the first instance, so high as we propose to do; they begin with small impositions, in order to try what the article will bear, and how far the people are disposed to sustain the pressure in that particular part. They also have in view the certainty of the collection; if they

find all these circumstances manageable, then they gradually increase the duty until the imposition becomes equal to what the article will bear. But he had forgot himself; he ought not to touch upon this point, because gentlemen are above deriving advantages from experience; although we are a young Government, yet, to be established, we are enumerating and laying duties that could only be proper after many years experience. Now, admitting these duties to be proper some years hence, was it not impolitic in Congress to load the people immediately upon getting the power of doing it, and burthening them in a heavier manner than they ever experienced even under the British Government?

Gentlemen had contended, that a duty of six cents per gallon on molasses was just and equal; for his part, he could not discover, with all the exertions his mind was capable of making, how gentlemen prove this to be the case; it appeared to him partial and oppressive.

The principle laid down in the constitution for an equal distribution of taxes was, that they shall be apportioned among the several States, according to their respective number of inhabitants. This principle is made positive as it respects direct taxes; but he thought the equality ought to extend itself to every possible case. The power possessed by the House, with regard to revenue and the power of making all necessary laws, enabled the General Government to exist independent of subordinate associations; but if they were inclined to annihilate the State Governments, yet it would be their interest to attend to the advantages of the community, and administer their power so as not to make it burthensome and oppressive. Now, he wished to know, what principle of justice authorized the committee to lay a duty of six cents on molasses? Unfortunately for Massachusetts, she imports a greater quantity than the whole Union besides. This makes her interest stand alone, and her representatives are left to labor the point, knowing the ill effect it will have upon their constituents. Under these circumstances, it is necessary to pay particular attention to the justice of the measure; gentlemen should consider that, in such cases, there is danger of interest prevailing over equity and policy. Certainly, if the measure is pursued, we shall discover this effect in the end.

Gentlemen have considered the arguments brought against this duty as standing upon local ground, advocating the local interest of Massachusetts. He would examine this position. It is the interest of a majority of the people of that State, that as much revenue should be drawn from molasses as possible. I say it is the interest of the State, for their interest is divided between the landed and commercial; the landed interest predominates, and it was always supposed that the commercial bore a greater share of the public burthen than it ought. The conduct of the State of Massachusetts ought to be esteemed by us as the best guide to discover

MAY 12, 1789.]

Duties on Imports.

[H. OF R.]

how far our commercial regulations, as they respect that State, are consistent with policy, if she furnishes the best example. Can we find that she ever imposed a duty of six cents per gallon on molasses? Not a single instance can be produced where she raised revenue from this article. If they then never laid a duty upon it, and they were disposed to get every thing in their power from commerce, we must conclude that if it could have been laid they would have done it. It is not the landed citizens, if he might use the term, who consumes molasses; it is the inhabitants of the sea coast; the former had the power, and they were interested to lay such a tax, it might therefore be expected they would have done it, if they had not been convinced it would have destroyed the fisheries and navigation of the State.

Now, he wished to know upon what principle the committee would proceed to lay a tax which the State Government had considered as injudicious. Was it to make them bear a due proportion of the public expense? Gentlemen had intimated that it was just for this reason, but what was the true state of the question? Massachusetts consumed of every article as much as other States, according to her numbers. If the returns of the custom-house were examined, this would be found to be the case. If the gentlemen from Georgia, Carolina, or Virginia, contend that we do not consume as much, and the result of an impartial inquiry is that we consume more, what reason can be offered why we should be exposed to the full operation of this high duty on molasses? Is it because it falls exclusively upon the Eastern States to pay such extravagant duties? Certainly gentlemen will not insist upon this principle. If Massachusetts pays her proportion on other articles, we will never consent to add 120,000 dollars more, when all the rest of the Union will not pay half the sum.

The gentleman from Virginia told us, that Virginia exports more than Massachusetts. I think three times as much. This was a secret never known till the gentleman had disclosed it. When gentlemen want a position to support their arguments, they assume the commerce of their States to be very small, and hence a heavy tonnage duty ought not to be laid, lest they should be ruined altogether; but if they are to prove the quantum of revenue they contribute, their commerce is magnified, and becomes three times as great as the commerce of the most commercial State in the Union. He thought gentlemen ought to be consistent in their facts and arguments, but he believed such an opinion was without foundation. How, said he, do gentlemen ascertain this to be the case? He had examined the subject with considerable attention, but could find no ground for such a supposition; the gentleman from Virginia [Mr. Madison] had enumerated a number of articles which were imported into Virginia. They were mere trifles, candles and soap. He would wish to know, if the duty on hemp and cordage

did not amount to more than all such articles taken together. But the articles of which gentlemen complain can be bought among them as cheap as they can in the Eastern States, allowing only for freight. If they must have European goods, it is to be presumed they suppose them of better quality, and ought to pay in proportion.

If it was admitted that a duty of six cents was a reasonable one upon rum, why will gentlemen choose a mode of levying it, which the State avoided for fear of ruining their commerce? But gentlemen are afraid of an excise, because it is unpopular; rather than run any risk on this account, they would put to the hazard one of the most essential interests of the United States, he meant the fisheries and navigation; but after all, we shall be under the necessity of having recourse to an excise, because this source of revenue will be insufficient for the public wants. The deficiency must be made up either in that way or by direct taxation. He did not think gentlemen would prefer a capitation tax to an excise; for his part, he would choose the latter.

The gentleman from Virginia [Mr. Madison] cannot see how an impost on molasses can affect the distilleries and fisheries. After having been repeated over and over again, it would be unnecessary that he should dwell on this point. But every one could see the connexion; if we do not import molasses, we cannot carry on our distilleries nor vend our fish; and it will be impossible to import molasses under such heavy duties, at least the future importation will be limited to two-thirds of the present, because the demand will be in proportion to the increase of price, and the merchant will not have capital to import more than two-thirds of his usual quantity.

He would not reiterate the arguments respecting the fisheries; it was well known to be the best nursery for seamen, the United States had no other, and it never could be the intention of gentlemen to leave the navigation of the Union to the mercy of foreign powers. It is of necessity, then, that we lay the foundation of our maritime importance as soon as may be, and this can be done only by encouraging our fisheries. It is also well known that we have a number of rivals in this business desirous of excluding us from the fishing banks altogether. This consideration of itself is sufficient to induce a wise legislature to extend every encouragement to so important a concern. In any regulation they make, by which it can be effected, they ought to be sure of the ground on which they go.

It appeared to him, that six cents would have the most ruinous consequences to the general interest; he therefore hoped gentlemen would agree to reduce it, if not so as to place it among the ad valorem articles, at least down to two cents. However, as the committee are not prepared to say the particular sum proper to be laid, he hoped they would agree to leave it a

H. OF R.]

Duties on Imports.

[MAY 13, 1789.]

blank, to be filled up at some future stage of the business.

The question was now taken on striking out six cents, and passed in the affirmative: ayes 24, noes 22.

Propositions were severally made for filling up the blank with two, three, four, and five cents; five being the highest was first put and agreed to—ayes 25, noes 23.

The committee proceeded to consider the subsequent articles; but not having time to go through the whole, they rose, and reported progress, and the House adjourned.

WEDNESDAY, May 13.

Mr. THATCHER presented a petition from the merchants and traders of the town of Portland, in Massachusetts, stating that the proposed duty on molasses will operate injuriously on New England, and praying that the article may remain free from duty.—*Ordered* to lie on the table.

The petition of John Fitch, of Pennsylvania, was presented, stating that he is the original discoverer of the principle of applying steam-power to the purposes of navigation, and has obtained an exclusive right therein for a term of years, in the States of Virginia, Delaware, Pennsylvania, New Jersey, and New York, and praying that his rights may be secured to him by law, so as to preclude subsequent improvers upon his principle from participation therein, until the expiration of his granted right. Referred to a committee, consisting of Messrs. HUNTINGTON, CADWALADER, and CONTEE, to report thereon.

DUTIES ON IMPORTS.

The House again resolved itself into a Committee of the whole on the Impost Bill, Mr. PAGE in the Chair.

Mr. AMES moved to insert china, crockery-ware, and gunpowder; he thought them articles of luxury.

Mr. FITZSIMONS desired the gentleman to change the expression from crockery to earthen and stone ware, which being done, the committee agreed to insert china, earthen, and stone ware, at seven and a half per cent. ad valorem, but negatived gunpowder. The committee afterwards added looking-glasses and brushes.

Mr. PARKER moved to insert a clause in the bill, imposing a duty on the importation of slaves, of ten dollars each person. He was sorry that the constitution prevented Congress from prohibiting the importation altogether; he thought it a defect in that instrument that it allowed of such a practice; it was contrary to the Revolution principles, and ought not to be permitted; but as he could not do all the good he desired, he was willing to do what lay in his power. He hoped such a duty as he moved for would prevent, in some degree, this irrational and inhuman traffic; if so, he should feel happy from the success of his motion.

Mr. SMITH, of South Carolina, hoped that

such an important and serious proposition as this would not be hastily adopted. It was a very late moment for the introduction of new subjects. He expected the committee had got through the business, and would rise without discussing any thing further. At least, if gentlemen were determined on considering the present motion, he hoped they would delay it for a few days, in order to give time for an examination of the subject. It was certainly a matter big with the most serious consequences to the State he represented; he did not think any one thing that had been discussed was so important to them, and the welfare of the Union, as the question now brought forward; but he was not prepared to enter on any argument, and therefore requested the motion might either be withdrawn or laid on the table.

Mr. SHERMAN approved of the object of the motion, but he did not think this bill was proper to embrace the subject. He could not reconcile himself to the insertion of human beings as an article of duty, among goods, wares, and merchandise. He hoped it would be withdrawn for the present, and taken up hereafter as an independent subject.

Mr. JACKSON, observing the quarter from which this motion came, said it did not surprise him, though it might have that effect upon others. He recollected that Virginia was an old settled State, and had her complement of slaves; so she was careless of recruiting her numbers by this means; the natural increase of her imported blacks was sufficient for their purpose; but he thought gentlemen ought to let their neighbors get supplied, before they imposed such a burthen upon the importation. He knew this business was viewed in an odious light to the eastward, because the people were capable of doing their own work, and had no occasion for slaves; but gentlemen will have some feeling for others; they will not try to throw all the weight upon those who have assisted in lightening their burthens; they do not wish to charge us for every comfort and enjoyment of life, and at the same time take away the means of procuring them; they do not wish to break us down at once.

He was convinced, from the inaptitude of the motion, and the want of time to consider it, that the candor of the gentleman would induce him to withdraw it for the present; and if ever it came forward again, he hoped it would comprehend the white slaves as well as black, who were imported from all the jails of Europe; wretches, convicted of the most flagrant crimes, were brought in and sold without any duty whatever. He thought that they ought to be taxed equally with the Africans, and had no doubt but the constitutionality and propriety of such a measure was equally apparent with the one proposed.

Mr. TUCKER thought it unfair to bring in such an important subject at a time when debate was almost precluded. The committee had gone through the impost bill, and the whole

MAY 13, 1789.]

Duties on Imports.

[H. OF R.]

Union was impatiently expecting the result of their deliberations; the public must be disappointed, and much revenue lost, or this question cannot undergo that full discussion which it deserves.

We have no right, said he, to consider whether the importation of slaves is proper or not; the constitution gives us no power on that point; it is left to the States to judge of that matter as they see fit. But if it is a business the gentleman is determined to discourage, he ought to have brought his motion forward sooner, and even then not have introduced it without previous notice. He hoped the committee would reject the motion, if it was not withdrawn. He was not speaking so much for the State he represented as for Georgia; because the State of South Carolina had a prohibitory law, which could be renewed when its limitation expired.

Mr. PARKER had ventured to introduce the subject after full deliberation, and did not like to withdraw it. Although the gentleman from Connecticut (Mr. SHERMAN) had said, that they ought not to be enumerated with goods, wares, and merchandise, he believed they were looked upon by the African traders in this light. He knew it was degrading the human species to annex that character to them; but he would rather do this than continue the actual evil of importing slaves a moment longer. He hoped Congress would do all that lay in their power to restore to human nature its inherent privileges, and, if possible, wipe off the stigma under which America labored. The inconsistency in our principles, with which we are justly charged, should be done away, that we may show, by our actions, the pure beneficence of the doctrine we hold out to the world in our Declaration of Independence.

Mr. SHERMAN thought the principles of the motion, and the principles of the bill, were inconsistent; the principle of the bill was to raise revenue, the principle of the motion to correct a moral evil. Now, considering it as an object of revenue, it would be unjust, because two or three States would bear the whole burthen, while he believed they bore their full proportion of all the rest. He was against receiving the motion into this bill, though he had no objection to taking it up by itself, on the principles of humanity and policy; and therefore would vote against it if it was not withdrawn.

Mr. AMES joined the gentleman last up; no one could suppose him favorable to slavery; he detested it from his soul; but he had some doubts whether imposing a duty on the importation would not have the appearance of countenancing the practice; it was certainly a subject of some delicacy, and no one appeared to be prepared for the discussion. He therefore hoped the motion would be withdrawn.

Mr. LIVERMORE was not against the principle of the motion; but in the present case he conceived it improper. If negroes were goods, wares, or merchandise, they came within the

title of the bill; if they were not, the bill would be inconsistent. But if they are goods, wares, or merchandise, the five per cent. ad valorem will embrace the importation, and the duty of five per cent. is nearly equal to ten dollars per head; so there is no occasion to add it even on the score of revenue.

Mr. JACKSON said, it was the fashion of the day to favor the liberty of slaves. He would not go into a discussion of the subject; but he believed it was capable of demonstration that they were better off in their present situation than they would be if they were manumitted. What are they to do if they are discharged? Work for a living? Experience has shown us they will not. Examine what has become of those in Maryland; many of them have been set free in that State. Did they turn themselves to industry and useful pursuits? No, they turn out common pickpockets, petty larceny villains. And is this mercy, forsooth, to turn them into a way in which they must lose their lives; for when they are thrown upon the world, void of property and connexions, they cannot get their living but by pilfering. What is to be done for compensation? Will Virginia set all her negroes free? Will they give up the money they cost them, and to whom? When this practice comes to be tried there, the sound of liberty will lose those charms which make it grateful to the ravished ear. But our slaves are not in a worse situation than they were on the coast of Africa. It is not uncommon there for the parents to sell their children in peace; and in war, the whole are taken and made slaves together. In these cases, it is only a change of one slavery for another; and are they not better here, where they have a master, bound by the ties of interest and law, to provide for their support and comfort in old age or infirmity, in which, if they were free, they would sink under the pressure of woe for want of assistance?

He would say nothing of the partiality of such a tax; it was admitted by the avowed friends of the measure; Georgia, in particular, would be oppressed. On this account, it would be the most odious tax Congress could impose.

Mr. SCHUREMAN hoped the gentleman would withdraw his motion, because the present was not the time or place for introducing the business. He thought it had better be brought forward in the House, as a distinct proposition. If the gentleman persisted in having the question determined, he would move the previous question, if he was supported.

Mr. MADISON.—I cannot concur with gentlemen who think the present an improper time or place to enter into a discussion of the proposed motion. If it is taken up in a separate view, we shall do the same thing at a greater expense of time. But gentlemen say that it is improper to connect the two objects, because they do not come within the title of the bill; but this objection may be obviated by accommodating the title to the contents. There may be

H. OF R.]

Duties on Imports.

[MAY 13, 1789.]

some inconsistency in combining the ideas which gentlemen have expressed, that is, considering the human race as a species of property; but the evil does not arise from adopting the clause now proposed; it is from the importation to which it relates. Our object in enumerating persons on paper with merchandise, is to prevent the practice of actually treating them as such, by having them in future forming part of the cargoes of goods, wares, and merchandise to be imported into the United States. The motion is calculated to avoid the very evil intimated by the gentleman.

It has been said that this tax will be partial and oppressive; but if a fair view is taken of this subject, I think we may form a different conclusion. But if it be partial or oppressive, are there not many instances in which we have laid taxes of this nature? Yet are they not thought to be justified by national policy? If any article is warranted on this account, how much more are we authorised to proceed on this occasion? The dictates of humanity, the principles of the people, the national safety and happiness, and prudent policy, require it of us. The constitution has particularly called our attention to it; and of all the articles contained in the bill before us, this is one of the last I should be willing to make a concession upon, so far as I am at liberty to go, according to the terms of the constitution or principles of justice. I would not have it understood that my zeal would carry me to disobey the inviolable commands of either.

I understood it had been intimated, that the motion was inconsistent or unconstitutional. I believe, sir, my worthy colleague has formed the words with a particular reference to the constitution; any how, so far as the duty is expressed, it perfectly accords with that instrument. If there are any inconsistencies in it, they may be rectified. I believe the intention is well understood, but I am far from supposing the diction improper. If the description of the persons does not accord with the ideas of the gentleman from Georgia, (Mr. JACKSON,) and his idea is a proper one for the committee to adopt, I see no difficulty in changing the phraseology.

I conceive the constitution, in this particular, was formed in order that the Government, whilst it was restrained from laying a total prohibition, might be able to give some testimony of the sense of America with respect to the African trade. We have liberty to impose a tax or duty upon the importation of such persons, as any of the States now existing shall think proper to admit; and this liberty was granted, I presume, upon two considerations: The first was, that until the time arrived when they might abolish the importation of slaves, they might have an opportunity of evidencing their sentiments on the policy and humanity of such a trade. The other was, that they might be taxed in due proportion with other articles imported; for if the possessor will consider

them as property, of course they are of value, and ought to be paid for. If gentlemen are apprehensive of oppression from the weight of the tax, let them make an estimate of its proportion, and they will find that it very little exceeds five per cent. ad valorem; so that they will gain very little by having them thrown into that mass of articles; whilst, by selecting them in the manner proposed, we shall fulfil the prevailing expectations of our fellow citizens, and perform our duty in executing the purposes of the constitution. It is to be hoped, that by expressing a national disapprobation of this trade, we may destroy it, and save ourselves from reproaches, and our posterity the imbecility ever attendant on a country filled with slaves.

I do not wish to say any thing harsh to the hearing of gentlemen who entertain different sentiments from me, or different sentiments from those I represent; but if there is any one point in which it is clearly the policy of this nation, so far as we constitutionally can, to vary the practice obtaining under some of the State Governments, it is this. But it is certain a majority of the States are opposed to this practice; therefore, upon principle, we ought to discountenance it as far as is in our power.

If I were not afraid of being told that the Representatives of the several States are the best able to judge of what is proper and conducive to their particular prosperity, I should venture to say that it is as much the interest of Georgia and South Carolina as of any in the Union. Every addition they receive to their number of slaves, tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack, instead of repelling invasion. It is a necessary duty of the General Government to protect every part of the empire against danger, as well internal as external. Every thing, therefore, which tends to increase this danger, though it may be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government. I hope, in making these observations, I shall not be understood to mean that a proper attention ought not to be paid to the local opinions and circumstances of any part of the United States, or that the particular representatives are not best able to judge of the sense of their immediate constituents.

If we examine the proposed measure, by the agreement there is between it and the existing State laws, it will show us that it is patronized by a very respectable part of the Union. I am informed that South Carolina has prohibited the importation of slaves for several years yet to come. We have the satisfaction, then, of reflecting that we do nothing more than their own laws do at this moment. This is not the case with one State. I am sorry that her situa-

MAY 14, 1789.]

Duties on Imports.

[H. OF R.]

tion is such as to seem to require a population of this nature; but it is impossible, in the nature of things, to consult the national good, without doing what we do not wish to do to some particular part.

Perhaps gentlemen contend against the introduction of the clause on too slight grounds. If it does not comport with the title of the bill, alter the latter. If it does not conform to the precise terms of the constitution, amend it. But if it will tend to delay the whole bill, that, perhaps, will be the best reason for making it the object of a separate one. If this be the sense of the committee, I shall submit.

Mr. GERRY thought all duties ought to be laid as equal as possible. He had endeavored to enforce this principle yesterday, but without the success he wished for; he was bound by the principle of justice, therefore, to vote for the proposition. But if the committee were desirous of considering the subject fully by itself, he had no objection; but he thought when gentlemen laid down a principle, they ought to support it generally.

Mr. BURKE said, gentlemen were contending for nothing; that the value of a slave averaged about eighty pounds, and the duty on that sum at five per cent. would be ten dollars. As Congress could go no further than that sum, he conceived it made no difference whether they were enumerated or left in the common mass.

Mr. MADISON.—If we contend for nothing, the gentlemen who are opposed to us do not contend for a great deal. But the question is, whether the five per cent. *ad valorem*, on all articles imported, will have any operation at all upon the introduction of slaves, unless we make a particular enumeration on this account. The collector may mistake; for he would not presume to apply the term goods, wares, and merchandise to any person whatsoever. But if that general definition of goods, wares, and merchandise, is supposed to include African slaves, why may we not particularly enumerate them, and lay the duty pointed out by the constitution, which, as gentlemen tell us, is no more than five per cent. upon their value. This will not increase the burthen upon any; but it will be that manifestation of our sense expected by our constituents, and demanded by justice and humanity.

Mr. BLAND had no doubt of the propriety or good policy of this measure. He had made up his mind upon it; he wished slaves had never been introduced into America. But if it was impossible at this time to cure the evil, he was very willing to join in any measures that would prevent its extending further. He had some doubts whether the prohibitory laws of the States were not in part repealed. Those who had endeavored to discountenance this trade by laying a duty on the importation, were prevented by the constitution from continuing such regulation, which declares that no State shall lay any impost or duties on imports. If this were the case, and he suspected pretty strongly that

it was, the necessity of adopting the proposition of his colleague was more apparent.

Mr. SHERMAN said the constitution does not consider these persons as species of property; it speaks of them as persons, and says, that a tax or duty may be imposed on the importation of them into any State which shall permit the same, but they have no power to prohibit such importation for twenty years. But Congress have power to declare upon what terms persons coming into the United States shall be entitled to citizenship; the rule of naturalization must, however, be uniform. He was convinced there were others who ought to be regulated in this particular, the importation of whom was of an evil tendency, he meant convicts particularly. He thought that some regulation respecting them was also proper; but it being a different subject, it ought to be taken up in a different manner.

Mr. MADISON was led to believe, from the observation that had fallen from the gentlemen, that it would be best to make this the subject of a distinct bill: he, therefore, wished his colleague would withdraw his motion, and move in the House for leave to bring in a bill on the same principles.

Mr. PARKER consented to withdraw his motion, under a conviction that the House was fully satisfied of its propriety. He knew very well that these persons were neither goods nor wares, but they were treated as articles of merchandise. Although he wished to get rid of this part of his property, yet he should not consent to deprive other people of theirs by any act of his, without their consent.

The committee rose, reported progress, and the House adjourned.

THURSDAY, May 14.

A message from the Senate informed the House, that they had appointed a committee to confer with such committee as shall be named on the part of the House, to report what newspapers the members of Congress shall be furnished with during the session, at the public expense.

The petition of Archibald McLean, of the city of New York, printer, was presented, praying to be employed to execute such portion of the printing of Congress as they may think proper to allot him.

A petition from the distillers of Philadelphia and its vicinity, suggesting the propriety of a greater difference in the duties on rum and molasses imported, than had been proposed.

Said petitions were ordered to lie on the table.

The petition of Jedediah Morse presented some days ago, was referred to a committee, consisting of Messrs. HUNTINGTON, CADWALADER, and CONTEE; and that from the citizens of New Jersey, be referred to the Committee of Elections.

A petition was presented from Englehart Cruse, praying for a grant of exclusive privilege

H. OF R.]

Duties on Imports.

[MAY 15, 1789.]

for a term of years, to construct and vend within the United States, an improved steam engine which he has invented for raising water for the purposes of mills, manufactories, &c. Referred to the same committee to which Mr. Morse's petition is referred.

DUTIES ON IMPORTS.

The House then again went into a Committee on the impost bill. Mr. PAGE in the chair.

Mr. SMITH moved to add a clause allowing a drawback of ten per cent. on the duty payable on all goods imported in American vessels, owned and navigated according to law, by citizens of the United States; which was carried by a vote of 30 votes to 16.

The committee then rose, and reported the bill with amendments; which, being agreed to by the House, it was ordered to be engrossed for a third reading. Adjourned.

FRIDAY, May 15.

Mr. BLAND, from the committee appointed to confer with a committee of the Senate, in preparing proper rules to be established between the two Houses, for the enrolment, attestation, publication, and preservation of the acts of Congress, and to regulate the mode of presenting the addresses, and other acts, to the President of the United States, made a report, which was read, and ordered to be referred to a Committee of the whole House.

Ordered, That Mr. SYLVESTER, Mr. WYNKOOP, and Mr. SMITH (of South Carolina) be a committee to confer with the committee appointed by the Senate, to report what newspapers the members of Congress shall be furnished with at the public expense; and that it be an instruction to the said committee, on the part of this House, to receive proposals for printing the acts and other proceedings of Congress, and report thereupon.

The several petitions of Francis Childs and John Swaine, and of Samuel Loudon and Son, praying to be employed in the printing business of Congress, were presented to the House, and, together with the petition of Archibald McLean, presented yesterday, to same effect, ordered to be referred to the committee last appointed.

Several other petitions of the citizens of New Jersey, praying that the elections of Representatives from that State may be declared valid, were presented to the House, and ordered to be referred to the Committee of Elections.

A petition of the Baron de Glaubeck, praying the consideration of Congress for certain losses and military services during the late war; also, a petition of Bartlett Hinds, a wounded officer in the Massachusetts line of the late continental army, in behalf of himself and the continental pensioners in that State, praying relief against certain injuries which they have sustained under the operation of the acts of the late Congress, were presented to the House, and ordered to lie on the table.

Mr. WHITE, one of the Representatives from Virginia, presented to the House a resolve of the Legislature of that State, of the 27th of December, 1788, offering to the acceptance of the Federal Government, ten miles square of territory, or any lesser quantity, in any part of that State, which Congress may choose, to be occupied and possessed by the United States, as the seat of the Federal Government; which was read, and ordered to lie on the table.

An engrossed bill for laying a duty on goods, wares, and merchandises, imported into the United States, was read a third time, and, on a motion made, ordered to be recommitted to a Committee of the whole House immediately.

The House, accordingly, resolved itself into the said committee; and, after some time, the committee rose, and reported the bill with amendments, which were agreed to by the House.

Mr. MADISON made a motion further to amend the said bill, by adding to the end thereof a clause for limiting the time of its continuance.

Mr. AMES expressed a doubt of the propriety of the motion. He thought the bill ought to be commensurate with the wants of Government.

Mr. FITZSIMONS.—For want of a proper knowledge of the true situation of our affairs, we are unable to determine how far the present provision is equal to the necessities of the Union, and this circumstance will tend to add considerably to our embarrassment in limiting the duration. If we make the time too short to supply the public wants, we shall not hold out to the public creditors a sufficient security for the punctual payment of their debts. If we should want to raise money by a loan, we could only expect it according to the duration of the fund: this makes the present motion a subject of serious consideration. Not that I object to what the gentleman has in contemplation, but I wish such language to be used, that shall designate the continuation of the law to be till the wants are supplied and thereafter cease. I am not of opinion that it should be for half a century, because I hope our national debt will be extinguished in much less time; but really I must confess, at this moment, I feel considerable embarrassment in determining in my mind the period for which it should exist, whether an enumerated term of years, or a general declaration during the continuance of the public wants.

I think it will be necessary specially to appropriate this revenue: indeed, I think all revenue should be appropriated at the time it is granted; but our want of knowledge respecting our situation makes it impracticable to direct a special appropriation at this time. Hence I cannot see what ought to be the decision of the House on the present motion. I think something of this kind ought to be done, but I cannot say particularly what. I believe other gentlemen will, on this occasion, find it easier to see the difficulty than to obviate it; but I hope those who have considered it will give their sentiments to the House, in order to enable us to

MAY 15, 1789.]

Duties on Imports.

[H. of R.]

form a judgment of what may be most expedient and proper.

Mr. LEE thought the operation of the law could not be well understood; that it was a system of experiment, and ought to be temporary, in order that a future Congress might make such amendments as time should discover to be necessary. How perfect soever the theory might appear, practice might prove it otherwise; he therefore wished its operation limited for three or five years. He thought it would be wise in the House to adopt the motion, in order to prevent any injustice which a permanent and imperfect regulation might have on posterity. He expected this would beget confidence in the Government, which was to him a very desirable object.

Mr. WHITE.—The constitution having authorized the House of Representatives alone to originate money bills, places an important trust in our hands, which, as their protectors, we ought not to part with. I do not mean to imply that the Senate are less to be trusted than this House; but the constitution, no doubt for wise purposes, has given the immediate Representatives of the People a control over the whole Government in this particular, which for their interest they ought not to let out of their hands. Besides, the constitution says further, that no appropriation shall be for a longer term than two years, which of consequence limits the duration of the revenue law to that period; when, if it is found conducive to the public welfare, it may be continued by the legislators appointed by the People, and who alone are authorized to declare upon this question in the first instance.

As to the restoration of our credit, or procuring of loans; if those who have money to lend, have confidence in our Government, and that confidence can only be regained by a punctual discharge of our engagements, we shall be able to draw the advantages from those causes which we formerly did. It was sufficient heretofore, and from the energy of the Government it is now more worthy of trust.

Mr. LIVERMORE hoped but little time would be taken up in the discussion of this subject, the People were anxiously waiting the result of their deliberations; beside the impost was daily slipping away. He had no doubt of the propriety of the motion, because from the acknowledged imperfections of the bill, it would never do for a permanent system. If the People, who consider themselves subjected to very high and very unequal duties, find no termination of the grievance, they will immediately adopt measures in their defence, to thwart the views of Government; but if they understand the law as temporary, and only passed in order to gain experience for forming a better system, they will be induced to give it fair play, and bear the burthen without complaint, trusting to the wisdom and justice of Congress for such alterations as practice may show to be necessary.

Besides, the objects for which the revenue is

now wanting, will decrease annually; this will be an additional reason for limiting its duration. He was not for a very short term, he thought five, seven, or ten years would be more eligible than two or three, but he was decidedly against making it perpetual.

Mr. SINICKSON had understood, that one of the objects of the bill was the re-establishment of public credit; but it never could be imagined that a law, limited to three or four years, could do this in any great degree; nor could any advantage arise from loans negotiated and terminated within such a short period. Under these impressions, he conceived the motion struck at the credit of the new Government, which the People had just established.

If the law was discovered to operate unequally, it might be amended by a future Legislature, who would take care to supply new funds to replace those which were either given up or reduced.

Mr. MADISON.—When he offered this amendment to the bill, he thought its propriety was so obvious and striking, that it would meet no opposition. To pass a bill, not limited in duration, which was to draw revenue from the pockets of the People, appeared to be dangerous in the administration of any Government; he hoped, therefore, the House would not be less cautious in this particular than other nations are, who profess to act upon sound principles. He imagined it might be considered by their constituents as incompatible with the spirit of the constitution, and dangerous to republican principles, to pass such a law unlimited in its duration.

He hoped it would not be understood by gentlemen who opposed his motion, that he supposed them to be actuated with a desire to do injury to either of those principles; he believed them to be moved only by an ardent desire to promote the general welfare, by the re-establishment of public credit. He would heartily join his labors with theirs, to effect this object, but wished to do it in a way, that while they served their country, they might secure the liberties of the People, and do honor to themselves. Besides the restoration of public credit, he thought the act had in view the encouragement of a particular description of people, which might lead them into enterprises of a peculiar nature, for the protection of which the public faith seemed to be pledged. But would gentlemen infer from hence, that no alteration ought to take place if the manufactures were well established? The subject appeared to him in a twofold point of view; first to provide for the exigencies of Government, and second, for the establishment of public credit; but he thought both these objects could be obtained without making the bill perpetual. If the Government showed a proper attention to the punctual performance of its engagements, it would obtain the latter; the other would be secured by making provision as the occasion demanded. If the bill was to be made perpetual,

H. of R.]

Duties on Imports.

[MAY 15, 1789.]

it would be continued after the purpose for which it was adopted had ceased; the error would in this case be irremediable; whereas, if its limitation was determined, it would always be in the power of the Government to make it commensurate with what the public debts and contingencies required.

The constitution, as had already been observed, places the power in the House of originating money bills. The principal reason why the constitution had made this distinction was, because they were chosen by the People, and supposed to be best acquainted with their interests and ability. In order to make them more particularly acquainted with these objects, the democratic branch of the Legislature consisted of a greater number, and were chosen for a shorter period, so that they might revert more frequently to the mass of the People. Now, if a revenue law was made perpetual, however unequal its operation might be, it would be out of the power of this House to effect an alteration; for if the President chose to object to the measure, it would require two-thirds of both Houses to carry it. Even if the House of Representatives were unanimous in their opinion that the law ought to be repealed, they would not be able to carry it, unless a great majority appeared in the Senate also.

He observed, that an honorable gentleman had thought that no appropriation of the public money could be made for a longer term than two years. This was true, as it related to the support of armies; but the question here did not appear to be respecting an appropriation. It was the revenue itself, which, without any appropriation, might continue flowing into the public treasury independent of the will of the People, and might thereby become a convenience in the hands of some other department of the Government, for the purpose of oppression. Experience might also forcibly suggest the necessity and importance of alterations in the law, yet, without this clause, it might never be in the power of the House to make them.

Mr. BODINOT said, he was in favor of the motion at the first view; but it was without proper consideration. He had attended to the arguments with a great desire of obtaining information, the consequence had been, that such difficulty arose in his mind on the subject, that he was unprepared to give his assent to it. He considered the want of public credit as one of the greatest evils the Legislature had to encounter; that such had been our situation for a long time under the late Government, that we were unable to perform any of the functions necessary to promote the public welfare. From this melancholy consideration, he was induced to join in every constitutional measure to promote so laudable an end. He did conceive that if the present bill was limited in its operation or duration, it would prevent the growth of public credit. He thought, unless some very valuable advantage was to result from the limitation which gentlemen had in view, it ought

not to be adopted; for his part, he could discover none. He considered a law always to be in the power of the Legislature. It was true, there were checks to prevent a hasty repeal, or adoption of any measure whatsoever. These checks were no doubt intended for a wise purpose. The constitution had given them, and it was a fair inference to suppose that the Senate ought to be trusted in this particular as well as the House. He did not apprehend any danger from the money being in the treasury; because it could not be touched without the special appropriation of Congress, and the receipts and expenditures of the public revenue must be published, which was an additional security. He apprehended that the limitation would not be equal to the demands of Government, because he thought they would continue unsatisfied for a longer term than gentlemen seemed willing to allow the law to exist. The time mentioned by the former Congress, and to which they requested the concurrence of the several States, was, that the impost duties might be continued for twenty-five years. This request was made on full consideration, and they did not think it was more than sufficient to discharge the principal and interest of the national debt. He concluded, therefore, that it was better to let the law remain without limitation; because when they found the purposes for which it was intended were accomplished, it would be in the power of Congress to repeal the law.

Mr. LAWRENCE thought the present was a subject of great importance, and he lamented it was not brought forward at an earlier period, because he feared the time would not allow that full discussion or deliberation which ought to take place. He wished also that the House was acquainted with the necessities of the United States, that so they might make provision accordingly; but these two points were mere matter of speculation as to their precise amount; yet he believed it was agreed on all hands, that the ways and means provided in this bill for the support of Government, the payment of interest and instalments of the foreign and domestic debt, were, so far as agreed to, inadequate to the object. If this be the case, the public debt must accumulate; and as we do not know when the time may come for its extinguishment, the provision cannot be limited; for every gentleman will agree, that if the demand for revenue be increasing, the fund ought to be commensurate to the object. Is there any time when the civil list will cease its demand? If there is not, there will be a perpetual call for revenue. He thought it absolutely impossible to provide for the payment of the debts, if the bill was limited to two, three, or four years; such a precarious provision would never tend to the re-establishment of public credit. If the bill was not limited, it would always be in the power of the Legislature to lower the duties, or make such other alteration as might, upon experience, be thought beneficial to the community; whereas if the

MAY 15, 1789.]

Duties on Imports.

[H. OF R.]

bill were limited, it would be thought improper to make any amendments during the term for which it is enacted, although those amendments appeared indispensably necessary. But why is this degree of caution necessary? Will not the administration of public affairs be conducted in future by representatives as good as ourselves? Will they have less wisdom or virtue, to discover and pursue the good of their fellow-citizens than we have?

As to the appropriation of this revenue, he was sorry the information before the House did not warrant them to proceed to that part of the business: he hoped it might be well done at some future period, but till it was done, not a farthing of the revenue could be paid out of the treasury. Where must the bill for the appropriation originate? It must be here. Then what ground have the House to fear the check of the Senate, or the President, in a case where they still retain all the power in their own hands? For it is as much in their power to limit this bill, by limiting the appropriation, as it is by the clause now proposed.

If he supposed the liberties of the people would be endangered unless the motion obtained, he most surely would be in support of it; but he thought the liberties of the people would ever be sure, while they chose men of wisdom and integrity to represent them. He had no reason to believe the people would be inattentive to this great privilege; and if it were exercised with discretion, there was no reason to apprehend that Congress would continue to collect an oppressive revenue, after the object for which it was imposed had ceased to exist. He was well persuaded, if the bill were limited, it would have the effect the gentleman from Jersey (Mr. SINNICKSON) mentioned, namely, that of injuring the public credit.

Mr. BLAND.—Our public credit consists of two branches; first, as it respects the evidences of our debt, in the hands of those from whom we have had money or services; and secondly, as it respects our ability to borrow in future. Now, the first branch of public credit depends upon the punctuality with which the interest is paid; but this, in foreign nations, does not depend upon the limitation of the act. Do gentlemen suppose our laws, like those of the Medes and Persians, unchangeable? Can any person, who has read our constitution, believe that it is in our power to pass a law without limitation? No, it is impossible. Every person knows that a future Congress may repeal this, and every other law we pass, whenever they think proper. Taking the subject in this point of view, gentlemen would see, that the arguments in favor of a perpetual revenue were more specious than solid; while those for a limitation contemplated the best and safest means of avoiding difficulty, in the repeal or alterations which hereafter might be thought necessary. Nothing but experience could demonstrate the propriety or impropriety of the present measures; therefore they ought to be

adopted merely by way of trial. The Government ought to be cautious in its first setting out, lest it alarm the people; and he thought his constituents would be much alarmed, if they conceived the power of the purse to be given into the hands of the other branches of the Government. The constitution had particularly entrusted the House of Representatives with the power of raising money; great care was necessary to preserve this privilege inviolate; it was one of the greatest securities the people had for their liberties under this Government. Moreover, the importance of the House itself depended upon holding the purse-strings; if they once part with this power, they would become insignificant, and the other branch of the Legislature might become altogether independent of them. For these reasons, he was in favor of the motion of his honorable colleague, and hoped it would obtain.

Mr. GERRY.—There seems to be a great variety of opinions entertained by gentlemen on this question. But he thought they would all agree on these two points: first, that there were very great demands upon the federal treasury; and, secondly, that they had no kind of documents to show what they were, or what the revenue bill would produce. Under these circumstances, gentlemen must agree, that there is danger of passing a law that would operate oppressively, and without reason. There was also danger of erring in the mode of collecting, for want of experience to guide them. From these considerations, there was no doubt but the act would require the re-consideration of the Legislature in a short time; there may be applications from the people of all quarters to repeal a part of it. But what are their immediate representatives to do, in case the bill be made perpetual? They may be convinced that a repeal would be just and necessary; but it may not be in their power to remedy the grievances of their constituents, however desirous they may be of doing so; for, although this House may originate and carry a bill unanimously through for the repeal, yet it will be in the power of the President, and the minority of the other branch of Congress, to prevent a repeal.

The arguments of gentlemen, relative to the support of public credit, appeared to him ill founded. The revenue intended by this bill was not specially appropriated. If it were appropriated to the payment of the public creditors, they would expect they had a security herein, which ought not to be withdrawn; but would not Congress, from the peculiarity of our situation, if from no other cause, have a right to change the security for an easier and more agreeable one to their constituents? To be sure they would. Then what advantage can result from declaring a system perpetual, which, constitutionally, may, can, and will be changed whenever the public good requires it?

Viewing the business in every point of view, it appeared, to him the best policy, and most

H. OF R.]

Duties on Imports.

[MAY 15, 1789.]

likely to give satisfaction, to limit the duration of the bill to one or two years; and therefore he hoped the motion would be agreed to.

Mr. HUNTINGDON thought it easy to see the danger of making this bill perpetual: besides parting with the power which the constitution gave to the House of Representatives, in authorizing them solely to originate money bills, there would be another inconvenience, which was, extending the revenue beyond what the nature of the public debt required. The foreign debt was payable by instalments; it was saying nothing to allege that the debt would accumulate, because the United States must make provision for the annual extinguishment of a part. If the revenue, arising from the impost be insufficient for this purpose, recourse must be had to some other fund, which will enable us to perform the engagements of the late Congress. It is true, the debt is large, and will take time to pay it off, but he had no doubt but it would be done according to contract, and with honor to the Union. How, then, can gentlemen suppose the revenue ought to be perpetual, in order to be commensurate with the object? If they contemplated the contraction of more debts in future, the supposition might be true; but he saw no reason why gentlemen should extend their views so far. He thought if a future war, or some other untoward circumstance, should increase the national debt, it ought to be provided for by the Government who were acquainted with the necessity. He thought the House ought to consider seriously before they parted with their powers; it was easy for them to pass a bill to give power, but it was difficult to recall it. He had seen many instances of this kind; one in particular in the State from which he came, where the Legislature had given the appointment of sheriffs, and some other little matters, out of their hands, and had been a long time endeavoring to get it back; but they had not been able to obtain it. He had no suspicions of any character in the Senate, but the constitution had made that body in some degree perpetual, to obtain a permanency in the laws; if, therefore, this revenue bill had once their approbation, they might be inclined to continue it, even against the sentiments of the people and of the House. Though he was not against trusting the gentlemen who now composed the Senate, he was against trusting their successors.

He thought the faith of the United States sufficiently pledged to the public creditors, not only by the late Congress, but by the constitution, which showed a particular attention to their interest. It only then remained, by efficient measures, to perform its stipulations; and this ever would be a duty on the representatives of the people, until it was fully complied with. In confidence that it might be done within a reasonable time, he was for a period neither so short nor so long as had been mentioned. About seven or ten years, he thought, would effect the object the gentlemen had in

view, and he would join them in voting for that time.

Mr. SMITH, of South Carolina, was also in favor of the clause; he conceived the only reason of weight urged against it, related to the restoration of public credit; but he thought every person possessed of the stock or debt of the United States would have the same feelings and reasoning as the House; they would know that their demands depended upon a higher source than Congress, and might be sure that we would do our duty in making particular provision. If Congress neglected this, one part of the creditors would compel them. If it was found that the United States were not disposed to pay their debts, foreigners would find the means to make them. Taking it therefore for granted, that Congress would always provide for these objects, he would proceed to consider what effect might arise from a permanent or temporary provision. If the latter were made, the creditors would honor us for our exertions, and confide in our continuing to provide for them in the manner we should find upon experience most convenient to the community. If the system was declared to be a perpetual provision for the payment of their interest, it would give no hope, in the first place, for the redemption of the capital; and in the second, if Congress were to alter it, and which, in all probability they shortly must, the security would be impaired, and an essential injury done to the public credit, which we are so desirous to revive.

How can gentlemen contend that the bill is not commensurate to the object? Do they know what the object is? He supposed it would be appropriated as mentioned, to the support of Government and the payment of the interest and principal of the national debt; but such appropriation had not taken place, and it was uncertain whether it ever would. He thought it would be better to bring in a bill, specially appropriating this fund to the payment of the foreign debt, and then it might be declared that it should continue, and be applied to this use, until the foreign debt was cleared. He conceived it would be unconstitutional to make the law perpetual, and therefore he was in favor of the clause.

Mr. AMES considered this as a very important question; and in order that his own mind might be fully enlightened, he had listened with the most unwearied attention to the arguments urged on both sides; but he was far from being satisfied that the motion was necessary or proper for the House to adopt. The principal reason offered in its support was, that the revenue is not specially appropriated; but he could not perceive that this furnished a reason why the clause should be introduced; either gentlemen are afraid that the Senate will not agree to the appropriation, or they will agree. If they will agree, there is no reason for distrust; if they will not agree with the House, then we ought not to trust them with this bill,

MAY 15, 1789.]

Duties on Imports.

[H. OF R.]

until we bring forward a clause for the purpose of appropriating the fund it is intended to raise. Gentlemen tell us the act is imperfect, and therefore ought to be limited; if this be the case, it may be a good reason for recommitting the bill, but can be none for adopting the clause. If we have not taken up time enough in adjusting and considering the several parts of this law, let it be readjusted and reconsidered in a Committee of the whole, until gentlemen are satisfied as to its perfection.

Gentlemen tell us they are willing to make the revenue commensurate with the debt. If they do this, all the inconveniences resulting from the imperfection of the system will be entailed upon us for a number of years. Other gentlemen mention a year or two for its limitation. Can the House listen seriously to such a proposition? If we were to tell our creditors that we are making provision for them for one year, would it tend to inspire them with confidence in our wisdom or justice? Would our foreign creditors believe we were scrupulously fulfilling our engagements with them? No: nothing less than a fixed, permanent system, can beget confidence or give security. An illusory system of one or two years duration would engender distrust; its very visage would make the public suspect deception. If we do not mean to deceive, why not make the provision commensurate to the occasion? His idea of a temporary act was *pro hac vice*, by way of experiment; but he thought the House could not make the experiment with this bill, because the public credit would not admit of it. If this act be made for one year, will it not be a considerable expense to the public by going over all the ground again, which had taken the House such a length of time to discuss?

Gentlemen have insisted upon the necessity of keeping the purse-strings in their hands. What do they mean by this? What power have the House over the money that comes into the treasury? Are they at liberty to apply it to their own use? Do not Congress declare the revenue to be the property of the public creditors, when they appropriate it to their use? Shall we say the people, then, keep the purse-strings in their hands? For what honest purpose shall they keep them? Why shall we, the House of Representatives, detain the money of foreigners? Does it not seem to carry fraud on the face of it? One gentleman says that he is unwilling to trust a future Senate; but if it shall be of equal integrity with the present, why should he hesitate? The State will be equally careful of obtaining a good representation, for their own sakes. But suppose the reverse should happen, do we not act wisely in making a provision for the security of our honor and the public welfare, which cannot be destroyed by one misguided branch of the Legislature? Now, suppose this law to expire, and the Senate should be unwilling to provide for the objects we have in contemplation, will this not prevent the representatives of the people from

carrying their wishes into execution? But if the Senate be willing to co-operate with the House, for what honest reason do we endeavor to retain this power? Besides, if the act is imperfect, will it not be easier to correct the imperfect part than to frame a new system? Surely gentlemen are under a great mistake when they suspect danger to arise from the revenue continuing to flow into the public treasury. Have not the House a complete command over it? No money can be drawn out but by appropriations by law. The President cannot touch it. Does it increase the power of the Senate? The Senate have no command over it, unless authorized by law. Can the House of Representatives make any use of it? They cannot get a farthing, because the consent of the Senate is required to enable them to draw for it.

What has been the conduct of Great Britain, in relation to her funds? What has carried the credit of that kingdom to a superior eminence, but the attention she has paid to public credit? He considered these advantages as having made that nation rich and powerful. He believed a like conduct on our part would produce the same consequences, because our Government is of such a nature as to give the public creditors the greatest security they could wish. If the revenue is appropriated, and the law for collecting it is without any limitation, the funds cannot be taken away without a positive act of injustice, to which both Houses of the Legislature must assent by a majority of two-thirds, or three independent parties must unite. It was therefore three to one in favor of the public creditor, that the funds appropriated to his use would not be annihilated. Under these circumstances, Government might more safely be trusted. This, he observed, was not the case under despotic princes; their will alone could tear away the security of the subject. Under a pure democracy, the case was almost as bad; no confidence could be placed, because the caprice and whim of one body could dictate a change.

Now an act that expires at a limited period revives the topics of partial politics and opposing interests, which involves expense; besides, it affords less confidence, because a variety of circumstances may occur to prevent a continuation of the necessary provision to establish the foundation of credit. It may be prevented by the mere disagreement of the two Houses. This uncertain situation of the public credit will prevent the Government from re-loaning their foreign and domestic debt, which might otherwise be done to very great advantage at a reduced interest. Viewing the subject in all these points of light, he could not help being opposed to the motion.

Mr. PAGE expressed his surprise to find gentlemen opposed to the limitation of the bill, who had complained so much of its imperfections. He thought a measure of the kind now proposed absolutely necessary to reconcile these gentlemen to particular parts of the bill. For

H. OF R.]

Duties on Imports.

[MAY 15, 1789.]

his own part, he had objections to some articles, and for that reason, if there was no other, he would be in favor of the limitation. It had been frequently asserted that half the revenue would be lost by smuggling. Can this, then, he would ask, be a bill proper to perpetuate, or fit for the restoration of the credit of the United States? He asked gentlemen whether they would lend a hand to rivet round the necks of their fellow-citizens a regulation which experience had convinced them was unjust, unequal, and oppressive? Yet the gentleman from Massachusetts (Mr. AMES) had declared that experience had convinced him that at least one particular article was subjected to a duty of this kind.

He did not believe public credit could be restored otherwise than by a strict and positive adherence to our engagements, and a faithful performance of the duties they undertook. While this continued to be a leading feature of the Government, he would be bold to say that we should daily grow in reputation, prosperity, and happiness. He hoped, therefore, that a particular attention would be paid to their future conduct, and that each member would emulate the other in providing for the revival of public credit, by acts of justice to the holders of public securities.

Mr. GERRY asked his colleague if he advocated carrying the taxes to such an extent as to accumulate sums in the treasury for which the United States had no particular use? Yet if this revenue law were made perpetual, it would collect money into the public coffers after the national debt was paid. This would be such a temptation to the Executive to possess itself by force of the treasures of the nation, as he hoped would never be put in its way. If our commerce and population increased, this revenue would increase in the same proportion. He could not, therefore, bear the idea of all this money being collected into one spot, unless there was an absolute demand for it. He thought it incompatible with the liberty and security of the people, and therefore hoped the House would agree to a short limitation.

Mr. MADISON, for the sake of accommodation, would make another proposition. He was extremely sorry to differ with gentlemen about modes, when their object appeared to be the same. He thought the spirit of the constitution and the structure of the Government rendered it improper to pass a perpetual revenue law. The arguments had been clear on this point; but as there was an evident propriety in making the means commensurate to the occasion, he was inclined to give the bill such a perpetuity as would answer the purpose of providing for the public debt and restoring the national credit. He thought this might be done by modifying his motion so as to refer to the collection bill; for he hoped, before that passed, the House would be able to ascertain the appropriation, and could limit it accordingly. The words he would propose were, that this act

should not continue and be in force longer than the — day of —, unless otherwise limited by the act providing for the appropriation. As he had heard it intimated that the yeas and nays would be called on this question, he was desirous of rendering the clause as satisfactory as possible.

Mr. AMES could not bear to lie under the imputation of inconsistency, with which he was charged, inasmuch as he contended against the limitation of a bill he had opposed as oppressive in some of its parts. He believed the amendment now offered was new to almost every gentleman. For his part, he had always supposed it was intended as a permanent system. He remembered many gentlemen made use of this expression, through the various debates which had taken place in the several stages of the bill. He had understood it in this light, and had therefore combated, with some degree of energy, such parts as appeared to him impolitic or unjust. He imagined the gentlemen on both sides had labored to make the bill as perfect as possible, with a view of making an equitable provision for the public exigencies, which should affect all parts of the Union with the greatest degree of impartiality.

Mr. SHERMAN observed, that when Congress applied to the several States for the five per cent. impost, they judged it would enable them to extinguish the national debt in twenty-five years; but, in addition to this fund, they expected to make annual requisitions on the States for one and a half million of dollars at least; so that gentlemen could not expect the whole to be paid by this single fund in a short time. He wished a limitation to the law in general terms, such as until the debt, foreign and domestic, is discharged. He thought a short term would make an unfavorable impression upon the minds of the public creditors, and tend in a great measure to cloud the happy prospects that began to brighten the political hemisphere of this country.

Mr. GERRY expressed an intention of calling the yeas and nays if he was supported, because he thought it a question in which the essential interests of the people were deeply involved.

Mr. LAWRENCE said, he held his present opinion upon the purest principles of patriotism, and an ardent love for his country's happiness. He had no objection to the yeas and nays being taken, as he was not inclined to disguise his sentiments.

Mr. PAGE was glad the yeas and nays were called, as it would give gentlemen an opportunity of showing to their constituents their approbation of a measure calculated to secure the blessings of liberty to themselves and posterity.

Several members rose to speak on this question, when Mr. AMES moved the adjournment, fearing gentlemen would grow warm upon the question.

Whereupon, the House adjourned.

MAY 16, 1789.]

Duties on Imports.

[H. OF R.]

SATURDAY, May 16.

Mr. SENEY, from Maryland, presented to the House an act of the Legislature of that State, offering to the acceptance of Congress ten miles square of territory, in any part of the said State, for the seat of the Federal Government, which was read and ordered to lie on the table.

A petition of Duncan Campbell, of the city of New York, was presented to the House and read, praying that compensation might be made him for sundry advances which he made during the late war, for the service of the United States.

Ordered, That the said petition lie on the table.

A petition of John Fenno was presented to the House and read, praying to be employed in the printing service of the United States.

Ordered, That the said petition be referred to the committee appointed yesterday, for receiving proposals for printing the acts and other proceedings of Congress.

DUTIES ON IMPORTS.

The House resumed the consideration of the amendment proposed yesterday to the bill for laying a duty on goods, wares, and merchandises imported into the United States, and the said amendment read as follows: "And be it further enacted by the authority aforesaid, that this act shall be in force until the — day of —, and from thence until the end of the next session of Congress which shall happen thereafter."

The question was called for, and Mr. LAWRENCE required the ayes and noes.

Mr. JACKSON wished to say a few words on the bill. The ayes and noes being called for, he conceived it his duty to state his reasons for his vote. He declared himself to be in favor of the limitation, for the reasons offered by honorable gentlemen yesterday. He said he had as ardent a desire to re-establish public credit, and place it on a good footing, as any member on that floor, yet he did not think making this law perpetual would have that tendency. He had no doubt but every subsequent Legislature would be equally desirous of doing justice to the creditors of the Union, and he therefore felt no uneasiness in leaving such provision to be made by them. If the next Legislature were disposed to violate the public honor, would the law now under consideration stand in their way? For his part, he could not conceive it an insuperable bar. The establishment of public credit depends upon the practice of an honest and upright policy: it will not depend upon paper promises; it must be true and substantial payments that will restore to us our lost honor. If Government do this, our credit will be re-established, let the funds be obtained in what manner they may. He thought the foundation of public credit ought to be laid at home before the superstructure was raised. To do this, the confidence of the people was to be gained; they must be satisfied of the justice of our measures; and this cannot be, unless it impartially affects

every part of the Union. Now, some parts of the present bill are very exceptionable to the Southern States; even the Northern gentlemen are far from unanimously approving them. He believed there was not a member who liked every part of the bill. Under these circumstances, what was to be expected but complaints from the people, and a consequent repeal of the bill? He did not wish to insinuate that the Senate would be so depraved as to oppose the public voice, but they might misunderstand it; they were a permanent body, and might be more inclined to support what they considered the honor of the Government than the convenience of the people.

The House of Representatives appeared to him to be the body best calculated to know and feel the interests of their immediate constituents; they ought, therefore, to preserve the power of redressing grievances, and not give too much into the hands of the Senate. He acknowledged the claims which those that fought and bled for their country had upon the justice of Congress; but he did not believe that class of citizens would complain or murmur at this House for keeping the purse-strings in their hands, when it was considered necessary to the security and happiness of the people.

Mr. WHITE did not see the necessity of calling the yeas and nays: he thought the measure was intended to have one of these two objects, either to show one part of the House had mistaken the interest of their country, and ought to be held up to posterity, in order that their memories may be charged with their want of knowledge; or that there is a part of this House who think themselves more wise and patriotic than the majority. He never called the yeas and nays in his life, nor believed he ever should; but he was willing to have his vote appear, in all cases, when gentlemen thought proper to perpetuate the decision of the House in that way. On this occasion he would vote in favor of the amendment, and would endeavor to answer the objections, which, if well founded, would be a subject of great uneasiness in his mind, considering how he intended to give his vote. It was said, that a temporary law would have a tendency to injure the credit of the United States; he believed the credit of the United States was established on as solid principles as the most solemn act could recognise; he meant that part of the public credit which respected the debt contracted, and the engagements entered into before the adoption of the constitution. If gentlemen would reflect, they would find it making part of our social compact. He believed no other country had made an act of this nature, to secure the just claims of their creditors. From this view of the subject, what more is necessary to be done than to carry the constitution into effect? He would ask gentlemen, if they believed that foreigners would scrutinize into our revenue system? Would they examine our ways and means, in order to determine the degree of confidence they ought

to have in us as a nation? Would the public creditors scrutinize in this manner the modes by which Government meant to accomplish their ends? He thought it hardly probable the people would take the pains of examining the minute details of a revenue system; they would rather inspect our actions, and if they see our conduct directed by wisdom and prudence, they would be confirmed in the belief of that justice in Government which the constitution has assured them of. If our payments are in future punctually made, and the full amount of the interest regularly discharged, the national credit will be re-established.

He would now proceed to examine, whether rendering this law perpetual would be a wise and prudent measure. It had been well observed by the gentleman from Georgia, (Mr. JACKSON,) that every part of the law would bear harder on some States than on others; perhaps there was no State in the Union which would not be in some degree dissatisfied. He could perceive, by the sentiments of gentlemen in this House, that the burthens would be peculiarly felt; under these impressions, gentlemen have expressed themselves more warmly than perhaps they ought. There had been predictions of the most dangerous consequences of high duties, which he would not repeat; if these dangers were not imaginary, would it be prudent in the House, to risk these consequences, and make these dangers unavoidable by rendering the law perpetual.

Much pains had been taken to impose the burthens as equally as possible. If the duty on molasses bears hard upon one State, the tonnage duty would bear equally so upon others. But still it is probable, that there are unequal pressures laid by the bill, which experience alone could enable the Legislature to alter to the satisfaction of all parties. The system was great, complex, and comprehensive; it embraces commerce, manufactures, agriculture, finance, and, in short, every thing in which a nation can be concerned. Will it be prudent, then, under our present disadvantages, and without information, to enact a law affecting the highest interests of the people, which can never be repealed but by the consent of three independent bodies? Gentlemen have told us, that no valuable purpose can be answered by making the law temporary; now, he thought a valuable purpose could be answered by it. The two Houses of Congress, with the qualified negative of the President, formed the legislative power of the United States; they are distinct powers to be exercised by both branches of the Legislature. The House had been told, on a former occasion, that the Senate possessed greater powers than the Representatives. He admitted that, in some instances, they had greater powers; but with respect to revenue matters, they certainly had less, and very properly so. Shall we then give up to a body, who has already a superiority over us, those superior powers which we possess relative to

revenue? A perpetual system would give the Senate greater advantages than constitutionally they ought to enjoy. He thought it of little consequence for the House to possess the right of originating money bills, if those money bills were made perpetual. The exercise of this right would be lost, and he thought it necessary that every part of Government should feel itself dependent upon the people. We have been told, with truth, that the Senate are a virtuous body; they are so, and he hoped would remain so, for ages yet to come, nay for ever; and, in his legislative capacity, he would act upon no other supposition. But still it ought to be remembered, that they would always be men, and liable to all the errors, frailties, and infirmities, with the rest of their fellow mortals; besides, they were constituted in some measure for purposes to which the other branch was incompetent; while this House was constituted for purposes for which the Senate is unequal. It is a well grounded republican maxim, that taxation and representation should depend each on the other. The people should be taxed only by representatives chosen for that purpose. This principle was written in the hearts of our British ancestors; it had been maintained by the best blood of our citizens, and he hoped it would descend with the fullest energy to our posterity. What, said he, are we about to do? A great branch of revenue, indeed the only branch, to which an application is now proper, or expected by the people, is about to be put out of our hands forever; for it would not be in the power of this House, or any future House, to annihilate those funds without the consent of the Senate and the concurrence of the President. Now, the Senate are not an equal representation of the people; in that body the States have equal numbers, while, in this House, the representation is proportioned to their population. Delaware sends one, Georgia three, and Virginia ten. Is it possible, in the nature of things, that two Senators can be as well acquainted with the feelings and interests of the people of Virginia, as ten men selected from among them, and taken from the several parts of the State? Will the people be satisfied to have that body able to continue a revenue system which their immediate representatives think oppressive, or perhaps unnecessary? Certainly they would not; whatever the wisdom and virtue of the Senate may be, he was convinced they were not competent to those peculiar objects for which a just representation was absolutely necessary. The Senate, it is true, is not a House of Lords; they do not possess any properties materially distinguishing them from the members of the House of Representatives; but, though the distinction is not so striking in the one case as in the other, yet it was nevertheless real. The House of Lords is created by the King, and is a permanent body; the Senate is chosen by the State Legislatures, and though the individuals have not a permanency in office, yet the body never ceases to exist.

H. OF R.]

Duties on Imports.

[MAY 16, 1789.]

These circumstances, in the constitution of the Senate, afforded a powerful objection to the new system of Government, and the people would never have adopted it, had they supposed that the powers of this body were unlimited in continuing a system of taxation, which had at any time met the approbation of their particular representatives.

He supposed, if an excise was laid, or direct taxes were found necessary, the people would be oppressed by them, because the same principle that made an impost law perpetual, would apply in all other cases. What, then, would become of the boasted privilege of the people, the right of taxing themselves? He expressed a willingness to pass a revenue law commensurate with the occasion, to operate until the public debts are paid. This was all the creditors could demand or expect, and all the House could with safety do. He might be told, that the Senate would be as ready to repeal the law as the House of Representatives; but, perhaps, the Senate could not be as well informed of the situation of the people, although they might be wise men; because it is not in the nature of things, that two men should possess as much information of the circumstances and wishes of the people as ten men could: besides, there is something in the nature of man which would not suffer him easily to part with power. He could cite some striking instances of this spirit. He could refer to a remarkable one which took place in the State from which he came. About the year 1670, an insurrection was raised in Virginia. After its suppression, the Assembly, to manifest their loyalty, passed an act giving the same privilege to the Governor and Council, with respect to scandalous words spoken of them, as the statute *De Scandalis Magnatum* gives to the Peers of Great Britain. The Assembly were soon after impressed with an opinion, that these privileges were incautiously transferred, and endeavored to recover them. It was a uniform practice of the House of Representatives to send up a bill for that purpose every session; but although the Council always proved themselves the friends of liberty, and joined the Assembly, both in their legislative and individual capacities, in a warm and spirited opposition to British tyranny, yet they would never consent to repeal that act to the very last moment of their existence.

Mr. TUCKER did not think it necessary to give his opinion otherwise than by his vote, because gentlemen, who had yesterday delivered their sentiments in favor of the clause, had anticipated what he had to say. But as he found himself influenced by the call for the ayes and noes on this question, he should be induced to state some of his reasons in favor of the amendment. He said, he was glad the ayes and noes had been called, and if it had not been done by any other gentleman, he should have conceived himself bound to have done it; because he did not think himself at liberty, but on very particular occasions, to make a

law perpetual. He wished to see a doctrine established, never to pass a law without limitation, unless justified by some extraordinary circumstances. Nothing, he thought, could ever justify such an act but the immutability of the object, and the absolute necessity and simplicity of every thing relating to it. If the House passed a perpetual revenue law, which had not an immutable object, they would abridge their own power, and destroy one of the great privileges of the people. Every bill of this nature, more or less, narrows the powers of this House, and throws it into the hands of the Executive and a minority of the Senate; for it is to be considered, that whenever we pass a bill on any subject, every matter in that bill contained is given up to the Executive and one-third of the Senators, so much so that it is out of the power of this House, even with a unanimous vote, to recover any part of it. At this rate we may go on, from time to time, in passing laws, transferring our powers, and at length become mere cyphers in the Government. The Senate would be able, with these advantages, to retain every privilege that was transferred, and it is natural to suppose they would have the inclination; or if they surrender this power, they might do it in commutation for other privileges. A change of circumstances might render a change of the law necessary; a revolution in commerce and manufactures might make some alterations proper, even if this bill be now perfect; for what is equal and just to-day, might be otherwise two years hence. Now, supposing these circumstances to occur in two years, and a new House of Representatives to have met, desirous of making those alterations which experience had demonstrated to be necessary, what would they say, when they found we had parted with the power which the constitution intended for the immediate representatives of the people? Would they not justly charge us with betraying the privileges we are sworn to maintain, by transferring the power of raising revenue to the Executive and Senate? He did not suppose they would neglect the public good; but he contended the House had no right to transfer any part of their power to be exercised by any body whatsoever.

Mr. SYLVESTER was in favor of the limitation clause. A good deal had been said in the House respecting the jarring interests of the several States. It had been confessed on all hands, that this was an experimental law; he viewed it as such, and expected, in the course of a few years, the Legislature would be able to discover the errors of this day. But what advantage can result from their knowledge, if they have not power to make the necessary alterations, or to build up a new system more perfect than the old? He had examined the annals of history, but was unable to discover that any nation had ever established a perpetual revenue law. He imagined gentlemen would admit these reasons to be sufficient to warrant the vote they were about to give.

MAY 16, 1789.]

Duties on Imports.

[H. OF R.]

Mr. CLYMER was of opinion, that if the bill were suffered to stand as it was, without the addition of the limiting clause, it would not be perpetual, as gentlemen seemed to imagine. He did not think it could be considered as a law in perpetuity, unless there was an express declaration to that effect. He had no doubt but a few years experience would enable Congress to correct this bill. But if it was limited to ten or twelve years, it could not be done within that period without a violation of the public faith. He thought this act, like the acts of Parliament, should be commensurate with its object. The public credit could be supported only by providing funds to answer the demand.

The design of this clause, he supposed, was to prevent a misapplication of the revenue; but this could be secured by attending to the appropriation. The House would have, in this case, an effectual check over the Executive power, as well as over the other branch of the Legislature. He thought this was as much as they ought to have, consistent with the distribution of the powers made by the constitution.

Mr. SINNICKSON did not expect this was to be a perpetual law, incapable of alteration; but he wished to see it a permanent system. The idea of a temporary system was long ago said to be out of the contemplation of the House. He should only observe, in addition to this, that our credit depended essentially upon what should be done at this time. He thought if the revenue existed merely upon the breath of the Legislature, for one or two years at a time, we should never attain that object. He thought that the public good required something substantial to be done in favor of those who had lent the public money in the hour of distress.

Mr. BOUDINOT thought himself obliged to say a few words more, in order to justify the part he should take in the division of the House on this question. He conceived the manner in which the motion was brought before the House, after the bill was supposed to be gone through, did not give such opportunity for the members to consider the subject as its importance seemed to require, and which might have been had if it had been brought forward at an earlier period.

If, said he, we are to have the measures of the Parliament of Great Britain hung about our necks in all our public proceedings, and observations from their practice perpetually sounding in our ears, that practice ought to be defined and established. He believed that in the whole volumes of the statute law, there was not one single revenue act to be found with a limitation. He believed that the revenue laws, passed fifty, sixty, eighty, and near a hundred years ago, in that kingdom, existed at the present moment. We have long seen and been convinced of the infirmities of the former confederation, and shall we now rivet those infirmities upon the present constitution? Are we never to stand upon a certain and solid foundation? Is not our public credit totally gone? Has not experience convinced us that the loss of it would

have been our total destruction, if the generous exertions we have lately made had not revived some degree of confidence in our future measures? Are we not so deeply in debt as to give us reason to believe that it will require many years to emancipate ourselves? If this is the case, will a revenue law for one or two years bring that relief which is expected? Will this prevent an increase of the public debt? Will it restore value to the evidences of that debt held by our creditors? He would ask any man, whether, if the United States were in the situation in which they were last war, he would be induced to lend money upon a temporary and inadequate fund provided for two years? He believed the answer would be in the negative.

A gentleman has said, that foreigners will not examine our acts in detail, to see whether sufficient security is afforded for their debt. He was of a different opinion. Would gentlemen say that they never examine a security? Would they lend money for ten years, to be repaid by annual instalments, when the funds extended no further than five years? He thought they had seen enough of public faith, and public bodies, to induce them to use greater caution. Look at the situation of the public creditors; see their disappointments and distresses, and say whether any thing short of an actual provision for the principal and interest of their debt can give them satisfaction? But can this be done by a temporary revenue law of one or two years? He did not mean that the law should be perpetual, because it was not in the power of the Legislature to pass such; he meant it should be adequate to the object. He contended it was an impropriety in language to call a law perpetual, which it was always in the power of Congress to repeal or alter; and said, a law limited to ten or twelve years was more out of their power than one in which nothing was declared with respect to its perpetuity; the latter was always subject to the will of the Legislature, the former could not be altered during that period, without a violation of the public faith.

Some gentlemen say they never will consent to a perpetual law; if this is the case, there will be an end to the Government. Do gentlemen mean that the judicial department shall not be permanent? Will they pass a bill to establish this branch of Government for one or two years? Certainly they do not mean to be guilty of such absurdity.

It was contended, that the House were relinquishing their right to the purse-strings; what was their right? They can originate a money bill, but the Senate can alter and amend it; they can negative it altogether; the system of finance is under the mutual inspection and direction of both Houses. Then why should this branch attempt, unconstitutionally, to check the co-operating powers of the Senate?

It had been well observed by gentlemen, in the early part of this debate, that the House had prejudged the question of perpetuity. He

H. OF R.]

Duties on Imports.

[MAY 16, 1789.]

had himself brought forward a motion for a temporary revenue, which had been decided against by the House in committee; so that unless they meant to give this system a permanency, much time and money had been wasted to little effect. He believed no person would be induced to lend money on a fund which depended on the will of one House, because if either branch of the Legislature objected to the re-passing of the law, the fund will be annihilated, and they have but one branch to trust to.

Mr. MADISON withdrew his motion in order to introduce another, which he hoped would reconcile both sides of the House. He joined those gentlemen who opposed the clause in thinking that one or two years would be a period insufficient to answer the purposes in contemplation. If the House agree to the clause he would substitute for the one just withdrawn, he would move to fill the blank with a more distant day. His motion was, that this act shall not continue in force after the — day of — unless otherwise provided in the act for the appropriation of the revenue.

Mr. FITZSIMONS seconded the motion.

Mr. SHERMAN liked this motion better than the other. Although he was in favor of leaving the law at large, he would vote for this clause, if the blanks were filled up with a sufficient time to accomplish those objects which the Government had in view in providing revenue.

Mr. AMES thought the question would recur when the appropriation or collecting bill came before them; he would rather, for his own part, decide the question at this moment, than consume the time of the House with another debate. Besides the House was not in possession of an act for appropriating the revenue; such a measure might never be agreed to; therefore he hoped the decision would take place at this time rather than be evaded.

Mr. FITZSIMONS was of opinion, that this revenue ought to be appropriated to the payment of the public debts, what were the views of other gentlemen he could not say. He was nevertheless in favor of limiting the law, and that upon constitutional principles, though he wished it commensurate to its object. Gentlemen had said a great deal respecting the imperfection of the system, that it was the effect of compromise; but nevertheless, he thought it as free from defects as it was possible a revenue system could be formed with such materials as the House possessed; but if it was imperfect, he did not see the difficulties some gentlemen mentioned, in altering and amending it when experience shall have pointed out its defects.

He was sorry the appropriations could not be made at this time, for want of a knowledge of the public debt and current expenses; but he hoped it might be done before the members left their seats, and then gentlemen might have an opportunity of making this law commensurate with the object they have in view.

He would observe farther, that all which had been said by gentlemen respecting public cre-

dit, tended to injure it and promote a spirit of speculation. He hoped it would not be understood, that this House were against providing an ample fund for the payment of the debts eventually, and for the punctual discharge of the interest in the interim. If we mean to borrow money, it is certain those who lend will judge of the security; and it is to be hoped, they will not think, from any thing that has been said here, that the Legislature hesitates to provide good and sufficient funds for their security.

Mr. BOUDINOT acquiesced in the motion now brought forward for the sake of accommodation, although he thought the bill would stand better without any limitation clause whatever.

Mr. PAGE was against the latter part of this clause. It had been justly said, that the bill would be oppressive; but, from the necessity of the times, the people will submit to it. Shall we not let them see the end of their burthen in the law itself? Are they to look into another bill for that purpose? Perhaps after the Senate have agreed to this act, they may oppose the limitation in the subsequent one; they may insist upon having this in perpetuity, and then the object which the House have in view will be defeated.

Mr. SMITH, of South Carolina, moved a division of the question.

Mr. LEE wished to strike out that part of the motion which related to the exception.

Mr. LIVERMORE seconded Mr. LEE.

The question was put, and that part of the clause lost.

The question now stood as originally introduced to the House.

The previous question was then demanded by five members: Shall the main question be now put? And on the question, shall the main question be now put? it was resolved in the affirmative.

And then the main question being put, that the House do agree to the amendment proposed to the said bill, it was resolved in the affirmative—ayes 41, noes 8.

The ayes and noes being called for by one-fifth of the members present:

Those who voted in the affirmative, are,

Messrs. Abraham Baldwin, Egbert Benson, Theodorick Bland, Adanus Burke, Daniel Carroll, Isaac Coles, Benjamin Contee, Thomas Fitzsimons, William Floyd, George Gale, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, Samuel Griffin, Jonathan Grout, John Hathorn, Daniel Heister, Benjamin Huntington, James Jackson, Richard Bland Lee, George Leonard, Samuel Livermore, James Madison, junior, Andrew Moore, Peter Muhlenburg, John Page, Josiah Parker, George Partridge, Jeremiah Van Ransselaer, Joshua Seney, Thomas Scott, William Smith, William Smith, of South Carolina, Jonathan Sturgis, Peter Sylvester, Jonathan Trumbull, Thomas Tudor Tucker, John Vining, Jeremiah Wadsworth, Alexander White, and Henry Wynkoop.

Those who voted in the negative, are,

Messrs. Fisher Ames, Elias Boudinot, Lambert Cadwalader, George Clymer, John Lawrence, Roger Sherman, Thomas Sinnickson, and George Thatcher.

MAY 19, 1789.]

Collection of Duties.

[H. OF R.]

The clause being added, it was agreed to fill the blank so as to read the first day of June, 1796.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-day.

A message from the Senate informed the House that they had instructed their committee appointed to confer with a committee of this House, and report what newspapers the members of Congress shall be furnished with, at the public expense, to receive proposals for printing the acts and other proceedings of Congress.

An engrossed bill, for laying a duty on goods, wares, and merchandises imported into the United States, was read a third time, and the blanks therein filled up.

Resolved, That the said bill do pass, and that the title be, "An act for laying a duty on goods, wares, and merchandises, imported into the United States."

Ordered, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

MONDAY, May 18.

A petition of John Bryce, of the city of New York, was presented to the House and read, praying to be employed as a stationer and book-binder to Congress.

Also the several petitions of Edward Evelith Powers, and Thomas Greenleaf, printers, praying to be employed in the printing service of Congress.

Ordered, That the said petitions be referred to the committee appointed to receive proposals for printing the acts and other proceedings of Congress.

Resolved, That leave be given to bring in a bill concerning the importation of certain persons into the United States, prior to the year 1808, and that Mr. PARKER, Mr. SINICKSON, and Mr. MÜHLERUNG, do prepare and bring in the same.

On motion, ordered, that a committee be appointed to prepare and bring in a bill, providing for the actual enumeration of the inhabitants of the United States, in conformity to the constitution, and for the purposes therein mentioned; and that Mr. GOODHUE, Mr. HEISTER, and Mr. SENEY, be of the said committee.

COLLECTION OF DUTIES.

The House resolved itself into a Committee of the whole on the bill for collecting the duties on goods, wares, and merchandises imported into the United States. Mr. PAGE in the chair.

Mr. LAWRENCE wished this subject delayed a few days, that the whole system of impost and tonnage might be decided upon, because the extension necessary to be used in the collection depended on the quantity of the duties.

This bill was founded upon the laws of the several States, and was very inadequate to the objects of the General Government, whose mea-

sures ought to be perfectly equal. By the laws of some States, they rate the goods at the value at the time and place of importation; in others, at their value at the place from whence they were exported: this would cause a difference in the duties of twenty-five or fifty per cent., and the constitution declares, that all duties, imposts, and excises shall be equal. Moreover, some States admitted paper in payment of duties; in cases where this medium was depreciated there would also be an inequality. For these reasons, and others that might readily occur, he wished the business to lie over.

Mr. HUNTINGTON had doubts respecting the constitutionality of the bill, besides being well satisfied of its incompetency: the inequalities mentioned by the gentleman from New York were very apparent; he would add another. The collection would be enforced with a greater or less degree of energy, according to the systems of the several States, and would be unequal. Besides, there are some States without impost and collecting laws, and, by the bill, they are to be governed by the laws of the adjoining State; he thought this would justly give ground of umbrage. How would one State like to be regulated by the laws of another which they had no power in forming? The State he represented would find itself in this predicament. He hoped the bill would be changed, and a system introduced upon general principles.

Mr. JACKSON thought the bill imperfect, and liable to all the objections mentioned. If a temporary system, for laying an impost of five per cent. upon all goods imported, had taken place at the first meeting of Congress, he should have agreed to some regulation of this kind, merely to embrace the spring importations; but as that was passed, he was for making the collection bill of a similar nature with the impost bill.

Mr. VINING saw insuperable difficulties in passing such a law as this. Delaware and Jersey stood in the same predicament as Connecticut with respect to an impost law. He hoped, therefore, from a regard to those States, the bill would be given up; he thought the best way to get rid of the business would be for the committee to rise.

This being agreed to, Mr. PAGE said, he was at a loss to make a regular report, as the committee had given no particular instructions; but, the truth was, they desired to have nothing more to do with the bill. Whereupon, it was ordered to lie on the table.

The House then went into a Committee of the whole on the report of the committee respecting the enrolment and preservation of the acts of Congress, and to regulate the mode of presenting addresses, &c. to the President, and made some progress in considering the same; after which they rose and reported.

Adjourned.

TUESDAY, May 19.

A message from the Senate announced that

H. OF R.]

Executive Departments.

[MAY 19, 1789.]

they had appointed a committee, to join a committee on the part of this House, to present to the President of the United States the bill, entitled "An act to regulate the time and manner of administering certain oaths," after the same shall be duly engrossed, examined, and signed by the Speaker of this House, and the President of the Senate.

Ordered, That Mr. PARTRIDGE and Mr. FLOYD be appointed a committee on the part of this House, for the purpose expressed in the message from the Senate.

Mr. SYLVESTER, from the committee appointed to confer with a committee of the Senate, to consider and report what newspapers the members of Congress shall be furnished with, at the public expense, and to receive proposals for printing the acts, and other proceedings of Congress, made a report, which was read, and ordered to lie on the table.

EXECUTIVE DEPARTMENTS.

On motion of Mr. BOUDINOT, the House resolved itself into a Committee of the whole House on the state of the Union. Mr. TRUMBULL in the chair.

Mr. BOUDINOT.—I rise, Mr. Chairman, with diffidence, to introduce a subject to the consideration of the committee, which I had hopes would have been brought forward by an abler hand; the pressing necessity of it must alone be my excuse. The great executive departments which were in existence under the late confederation, are now at an end, at least so far as not to be able to conduct the business of the United States. If we take up the present constitution, we shall find it contemplates departments of an executive nature in aid of the President: it then remains for us to carry this intention into effect, which I take it will be best done by settling principles for organizing them in this place, and afterwards appoint a select committee to bring in a bill for the same.

I need say little to convince gentlemen of the necessity which presses us into a pursuit of this measure. They know that our national debt is considerable; the interest on our foreign loans, and the instalments due, amount to two millions of dollars. This arrearage, together with the domestic debt, is of great magnitude, and it will be attended with the most dreadful consequences to let these affairs run into confusion and ruin, for want of proper regulations to keep them in order.

I shall move the committee therefore to come to some such resolution as this: That an officer be established for the management of the finances of the United States, at the head of which shall be an officer to be denominated the Secretary of Finance. I am not tenacious of the style, perhaps some other may be proper, but the object I have in view is to establish the department; after which we may go on to narrate the duties of the officer, and accommodate the name to the acts he is to perform. The departments under the late constitution are not to

be models for us to form ours upon by reason of the essential change which has taken place in the Government, and the new distribution of legislative, executive, and judicial powers.

If gentlemen then agree with me so far, I shall proceed to restrain the Secretary of Finance, and all persons under him, from being concerned in trade or commerce, and make it his duty to superintend the treasury and the finances of the United States, examine the public debts and engagements, inspect the collection and expenditure of the revenue, and to form and digest plans for its improvement. There may be other duties which gentlemen may add, as I do not pretend to have perfectly enumerated them all. After this point is settled, we may then go to the consideration of the War Department, and the Department of Foreign Affairs; but, for the present, I would wish to confine ourselves to the Department of Finance.

Mr. BENSON wished the committee to consider what he judged to be a previous question, namely, how many departments there should be established? He approved of the division mentioned by the gentleman; but would, with his leave, move that there be established in aid of the Chief Magistrate three executive departments, to be severally denominated the Department of Foreign Affairs, Treasury, and War. After determining this question, if it was a proper division, the committee might proceed to enumerate the duties which should be attached to each.

Mr. BOUDINOT was not tenacious of the form he had thrown his motion into, it was the substance he contended for; he had therefore no objection to the gentleman's motion. While he was up, he would correct a mistake into which he had fallen; it respected the arrearage of the interest and instalments of the foreign debt. He had learned from good authority, since he sat down, that there was nothing due on this account, but that it was completely paid up to the present year; but this did not do away the necessity of the present motion.

Mr. BLAND objected to the last motion as too indefinite, and feared the committee would precipitate the business, if they did not order the motions to lie on the table until to-morrow, or rather rise and refer it to be digested by a select committee.

Mr. WHITE wished gentlemen had been more particular in bringing this question forward, and had pointed out the nature and extent of the powers proposed to be given, that so his mind might be able to embrace the whole subject.

Mr. BOUDINOT said, he could apologize for not bringing the business on in another way. It seemed to be a settled point in the House that a Committee of the whole was the proper place for determining principles before they were sent elsewhere; he had therefore adopted that mode on the present occasion, though his own judgment would incline him to pursue that last mentioned by the gentleman from Virginia,

MAY 19, 1789.]

Executive Departments.

[H. OF R.]

(Mr. BLAND.) He conceived the necessity of having such an office was indisputable; the Government could not be carried on without it; but there may be a question with respect to the mode in which the business of the office shall be conducted; there may also be a question respecting the constitution of it, but none with respect to the establishment of either of the three departments he had mentioned.

Mr. PARTRIDGE wished the committee to attend to one object at a time. If they had determined upon the propriety of the Department of Finance, they could go on to the next, and so on until they had decided upon all they conceived necessary; for his part, he could not see any reason for determining there should be three or five great departments; or what was the object of such a question, unless it was to decide the whole business at once.

Mr. BENSON said, his motion was founded upon the constitutional division of these powers; the constitution contemplated them, because it gave the President the right of requiring the opinion of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices. If gentlemen were inclined to waive the determination for the present, he had no objection; it was certainly a subject of great importance, and required time for consideration.

Mr. VINING thought the gentleman should have added another department, viz. the Home Department. The territorial possessions of the United States, and the domestic affairs, would be objects of the greatest magnitude, and he suspected would render it essentially requisite to establish such a one.

Mr. BOUDINOT wished to confine the question to the Department of Finance.

A motion was made by Mr. BLAND for the committee's rising.

Mr. MADISON hoped they would not rise until the principles were settled. He thought it much better to determine the outlines of all business in a Committee of the whole. He was satisfied it would be found, on experience, to shorten their deliberations. If the gentlemen who had offered motions to the committee would withdraw them, he would offer one, which he judged likely to embrace the intentions of both gentlemen.

Mr. BENSON withdrew his motion, and Mr. MADISON moved, that it is the opinion of this committee, that there shall be established an Executive Department, to be denominated the Department of Foreign Affairs, at the head of which there shall be an officer, to be called the Secretary to the Department of Foreign Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate; and to be removable by the President.

That there shall be a Treasury Department, &c.

That there shall be a War Department, &c.

Mr. VINING seconded the motion, and offered to amend it, by adding the Domestic Depart-

ment, *mutatis mutandis*. He said this department, in his opinion, was of absolute necessity, more requisite than either of the other three, except the Department of Finance; the present and increasing duties of such a department will oblige them to make the establishment.

Mr. LIVERMORE was not prepared to decide on the question even as now brought forward, nor did he see a reason why the Department of Foreign Affairs was placed at the head of the list. He thought the Treasury Department of more importance, and consequently deserved the precedence.

As to the Domestic Department just mentioned by the gentleman from Delaware, he thought its duties might be blended with the others, and thereby save the United States the expense of one grand department. If the gentleman, therefore, would wait to see what were the duties assigned to them severally, he would be able to judge respecting his motion with greater propriety.

Mr. VINING withdrew his motion for the present.

And the committee agreed to the establishment of the Department of Foreign Affairs, and placing at the head thereof an officer to be called the Secretary of Foreign Affairs; but when they came to the mode of appointing the officer,

Mr. SMITH (of South Carolina) moved to strike out the words "who shall be appointed by the President, by and with the advice and consent of the Senate." He conceived the words to be unnecessary; besides, it looked as if they were conferring power, which was not the case, for the constitution had expressly given the power of appointment in the words there used. He also objected to the subsequent part of this paragraph, because it declared the President alone to have the power of removal.

Mr. PAGE saw no impropriety in passing an act to carry into execution the views of the constitution, and therefore had no objection to repeat those words in the resolution. He thought if the committee stopped there, they would be under no difficulty respecting the propriety of their measure, but if they went further they might meet with considerable embarrassment.

Mr. MADISON remarked, that as there was a discretionary power in the Legislature to give the privilege to the President alone of appointing inferior officers, there could be no injury in declaring in the resolution the constitutional mode of appointing the heads of Departments; however, if gentlemen were uneasy, he would not object to strike it out.

Mr. LEE thought this officer was an inferior officer; the President was the great and responsible officer of the Government; this was only to aid him in performing his executive duties; hence he conceived the power of appointing to be in the gift of the Legislature, and therefore the words were proper.

Mr. SMITH (of South Carolina).—This officer is at the head of a department, and one of those

H. OF R.]

Executive Departments.[*May 19, 1789.*]

who are to advise the President; the inferior officers mentioned in the constitution are clerks and other subordinate persons. The words are only a repetition of the words in the constitution, and are consequently superfluous.

The question was taken on striking out those words, and carried in the affirmative.

The committee proceeded to the discussion of the power of the President to remove this officer.

Mr. SMITH said, he had doubts whether the officer could be removed by the President. He apprehended he could only be removed by an impeachment before the Senate, and that, being once in office, he must remain there until convicted upon impeachment. He wished gentlemen would consider this point well before they decided it.

Mr. MADISON did not concur with the gentleman in his interpretation of the constitution. What, said he, would be the consequence of such construction? It would in effect establish every officer of the Government on the firm tenure of good behavior; not the heads of departments only, but all the inferior officers of those departments, would hold their offices during good behavior, and that to be judged of by one branch of the Legislature only on the impeachment of the other. If the constitution means this by its declarations to be the case, we must submit; but I should lament it as a fatal error interwoven in the system, and one that would ultimately prove its destruction. I think the inference would not arise from a fair construction of the words of that instrument.

It is very possible that an officer who may not incur the displeasure of the President, may be guilty of actions that ought to forfeit his place. The power of this House may reach him by the means of an impeachment, and he may be removed even against the will of the President; so that the declaration in the constitution, was intended as a supplemental security for the good behavior of the public officers. It is possible the case I have stated may happen. Indeed, it may, perhaps, on some occasion, be found necessary to impeach the President himself; surely, therefore, it may happen to a subordinate officer, whose bad actions may be connived at or overlooked by the President. Hence the people have an additional security in this constitutional provision.

I think it absolutely necessary that the President should have the power of removing from office; it will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses. On the constitutionality of the declaration I have no manner of doubt.

Mr. BENSON.—If we refer to the constitution for light on this subject, it will appear evident that the objection is not well founded. The objection is this, that an officer ought not to be

removed but by impeachment; then every officer is appointed during good behavior. Now, the constitution expressly declares, that the Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behavior. If it is declared, that they are to hold their offices by this particular tenure, it follows that the other officers of the Government should hold them only at pleasure. He thought this an important question, and one in which they were obliged to take the constitution by construction. For although it detailed the mode of appointing to office, it was not explicit as to the superseding: this clause, therefore, would be a mere declaration of the legislative construction on this point. He thought the importance and necessity of making the declaration, that the Chief Magistrate might supersede any civil officer was evident, and he should therefore vote in favor of the clause as it stood.

Mr. VINING said, there were no negative words in the constitution to preclude the President from the exercise of this power; but there was a strong presumption that he was invested with it: because it was declared, that all executive power should be vested in him, except in cases where it is otherwise qualified; as, for example, he could not fully exercise his executive power in making treaties, unless with the advice and consent of the Senate—the same in appointing to office.

He viewed the power of removal, by impeachment, as a supplementary security to the people against the continuance of improper persons in office; but it did not consist with the nature of things, that this should be the only mode of removal; it was attended with circumstances that would render it insufficient to secure the public safety, which was a primary object in every Government. Witness a transatlantic instance of its incompetency—he meant the famous case of Mr. Hastings. With what difficulty was that prosecution carried on! What a length of time did it take to determine! What is to be done while the impeachment is depending? For, according to the ideas of the gentleman from South Carolina, (Mr. SMITH,) he cannot be removed but on conviction. If he cannot be removed, I should suppose he cannot be suspended; and what security have the people against the machinations of a bad man in office? He had no doubt but the constitution gave this power to the President; but, if doubts were entertained, he thought it prudent to make a legislative declaration of the sentiments of Congress on this point. He was therefore in favor of the clause.

Mr. BLAND thought the power given by the constitution to the Senate, respecting the appointment to office, would be rendered almost nugatory if the President had the power of removal. If the first nomination of the President should be disapproved by the Senate, and the second agreed to, he had nothing to do but wait the adjournment of Congress, and then fill the vacancy with his favorite; who, by thus

MAY 19, 1789.]

Executive Departments.

[H. OF R.]

getting into the possession of the office, would have a considerable chance of permanency in it. He thought it consistent with the nature of things, that the power which appointed should remove; and would not object to a declaration in the resolution, if the words were added, that the President shall remove from office, by and with the advice and consent of the Senate. He agreed that the removal by impeachment was a supplementary aid favorable to the people; but he was clearly of opinion, that the same power that appointed had, or ought to have, the power of removal.

Mr. JACKSON wished the motion had been referred to a sub-committee to digest: it seemed to him they were building the house before the plan was drawn. He wished to see the system reduced to writing, that he might leisurely judge of the necessity and propriety of each office and its particular duties.

With respect to the question before the House, he was of opinion that if the House had the power of removal by the constitution, they could not give it out of their hands; because every power recognised by the constitution must remain where it was placed by that instrument. But the words in the constitution declare, in positive terms, that all civil officers shall be removed from office on impeachment for, and conviction of, high crimes and misdemeanors; and however long it may take to decide, in this way it must be done. He did not think the case of Mr. Hastings ought to be brought forward as a precedent for conducting such business in the United States. He believed, whenever an impeachment was brought before the Senate, they would proceed with all imaginable speed to its termination. He should, in case of impeachment, be willing to go so far as to give the power of suspension to the President, and he thought this all the security which the public safety required; it would prevent the party from doing further mischief. He agreed with the gentleman in the general principle, that the body who appointed ought to have the power of removal, as the body which enacts laws can repeal them; but if the power is deposited in any particular department by the constitution, it is out of the power of the House to alter it.

Mr. MADISON did not conceive it was a proper construction of the constitution to say, that there was no other mode of removing from office than that by impeachment; he believed this, as applied to the Judges, might be the case, but he could never imagine it extended in the manner which gentlemen contended for. He believed they would not assert, that any part of the constitution declared, that the only way to remove should be by impeachment; the contrary might be inferred, because Congress may establish offices by law; therefore, most certainly, it is in the discretion of the Legislature to say upon what terms the office shall be held, either during good behavior or during pleasure. Under this construction, the principles of the constitution would be reconcilable in every part; but

under that of the gentleman from South Carolina, it would be incongruous and faulty. He wondered how the gentleman from Georgia (Mr. JACKSON) would reconcile his principles so far as to permit the President to suspend the officer. He begged his colleague (Mr. BLAND) to consider the inconvenience his doctrine would occasion, by keeping the Senate constantly sitting, in order to give their assent to the removal of an officer; they might see there would be a constant probability of the Senate being called upon to exercise this power, consequently they could not be a moment absent. Now, he did not believe the constitution imposed any such duty upon them; why, then, said he, shall we enjoin it, especially at such an expense of the public treasure?

Mr. BOUDINOT would by no means infringe the constitution by any act of his, for if he thought this motion would lead the committee beyond the powers assigned to the Legislature, he would give it a decided negative; but, on an impartial examination of that instrument, he could not see the least foundation for such an objection; however, he was glad the question had come forward, because he wished to give a legislative construction to this part of the constitution.

The gentlemen who denied the power of the President to remove from office, founded their opinion upon the fourth section of the second article of the constitution, where it is declared, that all officers shall be removed from office on impeachment for, and conviction of, treason or bribery. If their construction is admissible, and no officer whatever is to be removed in any other way than by impeachment, we shall be in a deplorable situation indeed. Consider the extent of the United States, and the difficulty of conducting a prosecution against an officer, who, with the witnesses, resides a thousand miles from the seat of Government. But suppose the officer should, by sickness, or some other accident, be rendered incapable of performing the functions of the office, must he be continued? And yet it is to be apprehended, that such a disability would not furnish any good ground for impeachment; it could not be laid as treason or bribery, nor perhaps as a high crime or misdemeanor. Would gentlemen narrow the operation of the constitution in this manner, and render it impossible to be executed?

When the committee come to consider the clause respecting the removal by impeachment, they will find it is intended as a punishment for a crime, and not intended as the ordinary mean of re-arranging the departments. We find in the clause in the constitution subsequent to the one just mentioned, that the Judges are declared to hold their offices during good behavior; but if this is the tenure by which all offices are to be held, where is the necessity of this explicit declaration in favor of the Judges? Now, if any thing is to be drawn by construction from this part of the constitution, it is that

H. OF R.]

Executive Departments.

[MAY 19, 1789.]

the Judges alone are to hold their offices during good behavior; but all other officers during pleasure, unless otherwise provided in the constitution. He was certain, from the nature of things, that it was not the intention of the constitution to prevent the President from removing an officer who was found to be wholly unfit or incapable of doing his duty.

Mr. WHITE thought no office under the Government was to be held during pleasure, except those which are to be constituted by law; but all the heads of departments are to be appointed by the President, by and with the advice and consent of the Senate. He conceived that, in all cases, the party who appointed ought to judge of the removal, except in those cases which by the constitution are excepted, and in those cases impeachment and conviction are the only mode by which they can be removed. Although this committee may consider of the expediency of the present measure, yet the Senate would check, or correct, an improper decision; and he would ask the supporters of this part of the resolution, whether they expected the Senate would part with a power which they might think the constitution vested in them? He had doubts respecting the authority of the House to decide this question, and was very tenacious of doing any thing that would look like an encroachment on the privileges of the other branch of the Legislature.

Mr. THATCHER asked, why the Judges were particularly mentioned in the constitution as holding their offices during good behavior, if it was not supposed that, without this express declaration in their favor, they, in common with all other officers not immediately chosen by the State Legislatures and the people, would hold them during pleasure? The clause respecting impeachments was particularly calculated for removing unworthy officers of the other description. Holding this construction of the constitution to be right, he was in favor of the clause as it stood.

Mr. JACKSON acknowledged the Judges held their offices during good behavior, and he believed the Legislature had the power of determining the time an office should continue, but did not think they could give to the President alone the power of removing those who were appointed with the concurrence of the Senate.

Mr. SMITH admitted that Congress had a right to say that an office should be held a limited time, or for one year; but if no precise period was fixed, he conceived the officer's appointment to be during good behavior, and that the person could not be removed by the President. The constitution expresses the precise time for which the President of the United States shall be chosen; if no precise time had been fixed, he should conceive the tenure to be during good behavior. Now, on the same principle, he apprehended, if the Legislature did not fix a precise time for the Secretary of Foreign Affairs to hold his office, he would keep it during good behavior; all that could be done in case

of misbehavior would be, to suspend the officer until after trial and conviction, when he would be removed. A gentleman has asked, what must be done if an incumbent is found unfit for his office? He would answer, the person must remain there. What must be done if a member of this House is found unfit to perform the business of his constituents? Certainly he must and will continue on this floor. You cannot remove him unless guilty of some crime. He did not hold the opinion mentioned by some gentlemen, that the power who appoints can remove, because there were several cases where those who appoint have not the power of removal. In some of the State Governments, the chief Executive Magistrate appoints to office, but cannot remove. So, under this constitution, neither the people nor the Legislature can remove the members of the Senate or House of Representatives; nor can the Electors remove the President or Vice President, both of whom they appoint to those offices. He apprehended the power which the constitution gave to Congress of establishing certain offices by law, would enable them to limit the tenure of the office; but if Congress declined the exercise of this power, the officers appointed would continue in their station during good behavior.

Mr. LAWRENCE apprehended the words of the resolution limited the tenure of the office in the manner which the honorable gentleman last up seemed to admit to be proper. To be sure, it did not denominate the period by years or days, but it nevertheless fixed a precise period for its existence, viz. during the pleasure of the President. The constitution had certainly intended that Congress should define the tenure of office, or it would never have declared the Judges should continue during good behavior. This constitutional provision in their favor, was to render them independent of the Legislature, which it was not supposed would be the case if nothing on this head had been declared. It is the only thing which prevents us from making them dependent upon the will of the President for their continuance in office, or from ordaining that their commission shall expire at the end of a certain term of years.

He conceived, as the constitution was silent with respect to the time the Secretary of Foreign Affairs should remain in office, that it therefore depended upon the will of the Legislature to say how the department should be constituted and established by law, and the conditions upon which he shall enjoy the office. We can say he shall hold it for three years from his appointment, or during good behavior; and we may declare unfitness and incapacity causes of removal, and make the President alone judge of this case. We may authorize the President to remove him for any cause he thinks proper. It is in our power to make such declaration; but at the same time the constitution provides, that the President shall not have it in his power to hold a person in office who has been guilty of crimes or misdemeanors against the Govern-

MAY 19, 1789.]

Executive Departments.

[H. OF R.]

ment; the power of removal in such cases is in the Legislature, by impeachment. The only question which remained, he considered to be, could the Legislature safely trust the President with this power? The question of right he conceived to be indisputable; it was merely a question of expediency. Gentlemen admit, that we have a right to limit the duration of the office. What is authorizing the removal by the President but limiting it; and if we conceive this the best method of limiting it, why shall it be objected to as unconstitutional? If it increases the responsibility of the President, and certainly it does this, why should the Legislature hesitate in obtaining the highest security for the public interest and safety?

Mr. SYLVESTER thought the constitution ought to have a liberal construction, and therefore was of opinion that the clause relative to the removal by impeachment was intended as a check upon the President, as already mentioned by some gentlemen, and to secure to the people, by means of their representatives, a constitutional mode of obtaining justice against speculators and defaulters in office, who might be protected by the persons appointing them. He apprehended the doctrine held out by the gentleman from South Carolina would involve the Government in great difficulties, if not in ruin, and he did not see it was a necessary construction of the constitution. Why, then, should the House search for a meaning, to make the constitution inconsistent with itself, when a more rational one is at hand? He, however, inclined at present to the sentiments of the gentleman from Virginia, (Mr. BLAND,) who thought the Senate ought to be joined with the President in the removal, as they were joined by the constitution in the appointment to office.

Mr. GOODRICH was decidedly against combining the Senate in this business. He wished to make the President as responsible as possible for the conduct of the officers who were to execute the duties of his own branch of the Government. If the removal and appointment were placed in the hands of a numerous body, the responsibility would be lessened. He admitted there was a propriety in allowing the Senate to advise the President in the choice of officers; this the constitution had ordained for wise purposes; but there could be no real advantage arising from the concurrence of the Senate to the removal, but great disadvantages. It might beget faction and party, which would prevent the Senate from paying proper attention to the public business. Upon the whole, he concluded the community would be served by the best men when the Senate concurred with the President in the appointment; but if any oversight was committed, it could best be corrected by the superintending agent. It was the peculiar duty of the President to watch over the executive officers; but of what avail would be his inspection, unless he had a power to correct the abuses he might discover.

Mr. MADISON.—I look upon every constitu-

tional question, whatever its nature may be, as of great importance. I look upon the present to be doubly so, because its nature is of the highest moment to the well-being of the Government. I have listened with attention to the objections which have been stated, and to the replies that have been made, and I think the investigation of the meaning of the constitution has supported the doctrine I brought forward. If you consult the expediency, it will be greatly against the doctrine advanced by gentlemen on the other side of the question. See to what inconsistency gentlemen drive themselves by their construction of the constitution. The gentleman from South Carolina, (Mr. SMITH,) in order to bring to conviction and punishment an offender in any of the principal offices, must have recourse to a breach of the common law, and yet he may there be found guilty, and maintain his office, because he is fixed by the constitution. It has been said, we may guard against the inconvenience of that construction, by limiting the duration of the office to a term of years; but, during that term, there is no way of getting rid of a bad officer but by impeachment. During the time this is depending, the person may continue to commit those crimes for which he is impeached, because if his construction of the constitution is right, the President can have no more power to suspend than he has to remove.

What fell from one of my colleagues (Mr. BLAND) appears to have more weight than any thing hitherto suggested. The constitution, at the first view, may seem to favor his opinion; but that must be the case only at the first view; for, if we examine it, we shall find his construction incompatible with the spirit and principles contained in that instrument.

It is said, that it comports with the nature of things, that those who appoint should have the power of removal; but I cannot conceive that this sentiment is warranted by the constitution; I believe it would be found very inconvenient in practice. It is one of the most prominent features of the constitution, a principle that pervades the whole system, that there should be the highest possible degree of responsibility in all the executive officers thereof; any thing, therefore, which tends to lessen this responsibility, is contrary to its spirit and intention, and, unless it is saddled upon us expressly by the letter of that work, I shall oppose the admission of it into any act of the Legislature. Now, if the heads of the executive departments are subjected to removal by the President alone, we have in him security for the good behavior of the officer. If he does not conform to the judgment of the President in doing the executive duties of his office, he can be displaced. This makes him responsible to the great executive power, and makes the President responsible to the public for the conduct of the person he has nominated and appointed to aid him in the administration of his department. But if the President shall join in a collusion with this

MAY 19, 1789.]

Executive Departments.

[H. OF R.]

officer, and continue a bad man in office, the case of impeachment will reach the culprit, and drag him forth to punishment. But if you take the other construction, and say he shall not be displaced but by and with the advice and consent of the Senate, the President is no longer answerable for the conduct of the officer; all will depend upon the Senate. You here destroy a real responsibility without obtaining even the shadow; for no gentleman will pretend to say the responsibility of the Senate can be of such a nature as to afford substantial security. But why, it may be asked, was the Senate joined with the President in appointing to office, if they have no responsibility? I answer, merely for the sake of advising, being supposed, from their nature, better acquainted with the characters of the candidates than an individual; yet even here the President is held to the responsibility he nominates, and, with their consent, appoints. No person can be forced upon him as an assistant by any other branch of the Government.

There is another objection to this construction, which I consider of some weight, and shall therefore mention to the committee. Perhaps there was no argument urged with more success, or more plausibly grounded against the constitution, under which we are now deliberating, than that founded on the mingling of the executive and legislative branches of the Government in one body. It has been objected, that the Senate have too much of the executive power even, by having a control over the President in the appointment to office. Now, shall we extend this connexion between the legislative and executive departments, which will strengthen the objection, and diminish the responsibility we have in the head of the executive? I cannot but believe, if gentlemen weigh well these considerations, they will think it safe and expedient to adopt the clause.

MR. GERRY.—The constitution provides for the appointment of the public officers in this manner: The President shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. Now, if there be no other clause respecting the appointment, I shall be glad to see how the heads of departments are to be removed by the President alone. What clause is it that gives this power in express terms? I believe there is none such. If there is a power of removal, besides that by impeachment, it must vest somewhere. It must vest in the President, or in the President and Senate, or in the President, Senate, and House of Representatives. Now, there is no clause which expressly vests it in the President. I believe no gentleman contends it is in this House, because that would be that mingling of the executive and legislative powers gentlemen deprecate. I presume, then,

gentlemen will grant, that if there is such a power, it vests with the President, by and with the advice and consent of the Senate, who are the body that appoints. I think we ought to be cautious how we step in between the President and the Senate, to abridge the power of the one, or increase the other. If the power of removal vests where I suppose, we, by this declaration, undertake to transfer it to the President alone.

It has been mentioned, that it is proper to give this power to the President, in order to make him more fully responsible for this officer. I am for supporting the President to the utmost of my power, and making him as responsible as possible. I would therefore vest every gift of office, in the power of the Legislature, in the President alone; but I cannot think we ought to attempt to give him authority to remove from office, in cases where the constitution has placed it in other hands.

MR. LIVERMORE considered this as a constitutional question, and was of opinion, that the same power which appointed an officer, had the right of removal also, unless it was restrained by an express declaration to the contrary. As the President, by and with the advice and consent of the Senate, is empowered to appoint ambassadors, certainly they have a right to remove them and appoint others. In the case of the judges, they must be appointed for life, or during good behavior. He had no idea, that it could ever enter into the heart of any man living, that all officers appointed under the constitution were to have a perpetuity in office. The judges themselves would not have had this right, if it had not been expressly given by the constitution, but would be removable in like manner with ambassadors, other public ministers, and consuls. He took it, therefore, in the present case, that the President and the Senate would have the power of removing the Secretary of Foreign Affairs. The only question, therefore, which appears to be before the committee is, whether we shall give this power to the President alone? And with that he thought they had nothing to do. He supposed, if the clause was left out, the President and the Senate would proceed, as directed by the constitution, to appoint the officer; and hereafter, if they judged it necessary, would remove him; but if they neglected to do so, when it was necessary, by reason of his misdemeanors, this House would impeach him, and so get rid of him on conviction.

MR. BLAND.—It seems to be agreed on all hands, that there does exist a power of removal; the contrary doctrine would be a solecism in Government. If an officer embezzles the public money, or neglects or refuses to do the duties of his appointment, can it be supposed there is no way of getting rid of such a person? He was certain it was essentially necessary such a power should be lodged somewhere, or it would be impossible to carry the Government into execution. Their inquiries were therefore reduced to this point: Does it reside, agreeably to the

H. of R.]

Executive Departments.

[MAY 19, 1789.]

constitution, in the President, or in the President and the Senate? The constitution declares, that the President and the Senate shall appoint, and it naturally follows, that the power which appoints shall remove also. What would be the consequence of the removal by the President alone, he had already mentioned, and need not repeat. A new President might, by turning out the great officers, bring about a change of the ministry, and throw the affairs of the Union into disorder: would not this, in fact, make the President a monarch, and give him absolute power over all the great departments of Government? It signifies nothing that the Senate have a check over the appointment, because he can remove, and tire out the good disposition of the Senate.

His colleague had objected to the removal in this way, because the Senate would be kept constantly sitting. He did not think this objection of any weight, because the constitution made some other things their duty, which would require them to be pretty constantly sitting. He alluded to the part they were called upon to perform in making treaties; this, therefore, would be a trifling objection.

Mr. BENSON thought it was not absolutely necessary to make any provision on this head, because the power was given to the President by the constitution; but as the argument had been pretty well gone into, he would add no more at present, than just to remark an error the gentleman last up had fallen into. He had supposed the President to have the powers of a monarch, that he could introduce and keep a favorite in office in despite of every other branch of the Government: the Senate was an effectual check to a system of favoritism, and it lay in the power of the House to correct any abuse arising from such a system, if it unhappily was fallen into.

Mr. BLAND insisted that the check of the Senate was not sufficient, if the power of removal was taken from them. Indeed, he was satisfied, from the privilege the President had of nominating and filling up vacancies *pro tempore*, he would become absolute, if he alone had the power of removal. He was therefore against this part of the motion, both on principle and policy. He therefore moved to add to the words of the motion, "by and with the advice and consent of the Senate," so that the power of removal might be declared to be in the same body as the constitution placed the appointment.

Mr. CLYMER said, the power of removal was an executive power, and as such belonged to the President alone, by the express words of the constitution: "the executive power shall be vested in a President of the United States of America." The Senate were not an executive body; they were a legislative one. It was true, in some instances, they held a qualified check over the executive power, but that was in consequence of an express declaration in the constitution; without such declaration, they would not

have been called upon for advice and consent in the case of appointment. Why, then, shall we extend their power to control the removal which is naturally in the Executive, unless it is likewise expressly declared in the constitution?

The question on adding the words "by and with the advice and consent of the Senate," as moved by Mr. BLAND, was put and lost.

Mr. WHITE.—It has been said, that the Senate are not an executive body. I grant that they are not an executive body when they are sitting for legislative purposes; but they are an executive body when performing their executive functions as required in the constitution.

Every question respecting treaties or public officers must go through their hands. Why shall we make the President responsible for what goes through other hands? He is not solely responsible agreeably to the constitution, for the conduct of the officers he nominates, and the Senate appoints; why then talk of obtaining a greater degree of responsibility than is known to the constitution?

We are told, that we ought to keep the legislative and executive departments distinct; if we were forming a constitution, the observation would be worthy of due consideration, and he would agree to the principles; but the constitution is formed, and the powers blended; the wished-for separation is therefore impracticable.

Mr. VINING remarked, that the argument of the gentleman from Pennsylvania (Mr. CLYMER) was too well founded to be overturned by the critical distinction made by the gentleman last up, and was sufficient to convince gentlemen, if they would consider it well, that the constitution vested the power of removal in the President alone. He begged the committee to consider the monstrous effect it would produce if the Legislature went on to mingle the legislative and executive powers. He would place it in one other point of view, and then have done with the subject. It is well known, that the Senate are to decide upon an impeachment made by this House. Now, can they be impartial judges when they have already given judgment in the case? Suppose the President communicates his suspicions to the Senate respecting the malfeasance of a public officer, and they, from faction or party views, or, indeed, for want of full information, refuse their consent to the removal; can they be the equal and unbiased judicature which the constitution contemplates them to be? He thought they could not.

Mr. PAGE requested the committee to delay the decision of this question, because he did not wish gentlemen to commit themselves, without having fully reflected upon the subject. It had presented itself to his mind, as one of the most momentous questions that could arise, in which the rights of the People, the energy of Government, and the liberty of posterity were staked. He begged them not to cast the die, on which

MAY 20, 1789.]

Treasury Department.

[H. OF R.]

the fate of millions was hazarded, until they had maturely considered the subject. He felt a degree of security in the check the Senate had over the President, in appointing to office; but he should not think himself safe, if the power of removal was in the President alone.

The question was now taken, and carried by a considerable majority, in favor of declaring the power of removal to be in the President.

TREASURY DEPARTMENT.

The committee then proceeded to the consideration of the Treasury Department.

Mr. GERRY knew nothing of the system which gentlemen propose to adopt, in arranging the Treasury Department. He thought they were hurrying on business too rapidly. Gentlemen had already committed themselves on one very important point; he hoped the honorable mover of this proposition would explain his intentions, before the committee decided the question. He could not see where it might lead.

The late Congress had, on long experience, thought proper to organize the Treasury Department, in a mode different from that proposed by the resolution. He would be glad to know what the reasons were that should induce the committee to adopt a different system from that which had been found most beneficial to the United States. He hoped gentlemen would give time for considering the subject maturely; wherefore, he would move to postpone it, for the present, and proceed to the War Department.

Mr. BOUDINOT rose, to express his surprise that gentlemen should say that they were not prepared, when the subject had been often mentioned to the House, and its necessity was self-evident. He had a week ago proposed to refer it to a select committee, but had been overruled. He was told then, that the proper mode of doing the business was, to go into a Committee of the whole. He had taken that mode, in consequence, and hoped the business would not be unnecessarily delayed.

Mr. GOODRUE admitted the necessity of having a Treasury Department, as said by the gentlemen last up, was self-evident; but it was not obvious whether the department should be placed under one man, or a Board of Commissioners. In order to have time for considering the question, he would second the motion for postponing.

Mr. BENSON said, the motion of postponement was contrary to the rules of the House. The gentleman might move the committee to rise, and the effect would be the same. While he was up, he would declare his sentiment to be in favor of a single head of this department, rather than three; but he would have the principal officer well checked in the execution of his trust.

The motion being changed for the rising of the committee, it was agreed to.

Adjourned.

WEDNESDAY, May 20.

TREASURY DEPARTMENT.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. TRUMBULL in the chair. The resolution for establishing the Treasury Department being under consideration:

Mr. GERRY.—We are now called upon, Mr. Speaker, to deliberate, whether we shall place this all-important department in the hands of a single individual, or in a Board of Commissioners. I presume the gentleman, who has brought forward this string of propositions, means, that this officer shall have power to examine into the state of the public debt and expenses, to receive and disburse the revenue, to devise plans for its improvement and expansion, and, in short, to superintend and direct the receipts and expenditure, and govern the finances of the United States; having under him officers to do the subordinate business of registering and recording his transactions, and a Comptroller to control his operations with respect to the accounts and vouchers.

Before this committee proceed one step farther in this business, they ought seriously to consider the situation of this country, and what will be the consequence of appointing such an officer; consider how it will affect the public in general, the revenue, and even the Government itself. He is declared, in the list of duties assigned him in the paper read yesterday by the gentleman from New York, (Mr. BENSON,) to have the power to form and digest the accounts, and to control all the officers of the department. It is evident, that we put his integrity to the trial, by such an arrangement. If he is disposed to embezzle the public money, it will be out of the power of the Executive itself to check or control him in his nefarious practices. The extension of his business to the collectors of at least fifty seaports, (over whom the naval officer can have no control, with respect to the money received,) will furnish abundant opportunities for peculation. In addition to the moneys arising from the impost, he may have to do with large sums derived from other quarters, from the sale of the vacant lands, the money of defaulters now due to the United States, and the revenue arising from taxes and excises. Admit these innumerable opportunities for defrauding the revenue, without check or control, and it is next to impossible he should remain unsullied in his reputation, or innoxious with respect to misapplying his trust.

Other great opportunities may arise in case of an anticipation of the public revenue; or, if it is necessary to prevent the injury which a rapid depreciation of the securities occasion to public credit, he may be employed in purchasing them, in order to advance the credit of the Union. But what is to prevent the greatest imposition in this business? Charging them to the public at their nominal value, it is not in the power of the Government to check this species

H. of R.]

Treasury Department.

[MAY 20, 1789.]

of speculation; what then is the situation of your officer? He must subject himself to suspicion: indeed, it is as much as his reputation is worth to come into a place of this kind; he can hardly preserve his integrity. His honor, credit, and character, must inevitably be injured. He cannot prove himself innocent of the suspicion, because it is the negative side of the question. He can offer nothing more in his defence than a mere denial of the crime.

There is another point which ought to be well considered: This officer is to digest and form the accounts. He can consequently give the business such complexity, as to render it impossible to detect his impositions; and as the inferior officers, who might discover the fraud, are to be appointed by the principal, will they not consequently be men after his own heart?

Taking these circumstances together, it must be very disagreeable to the person appointed, provided he is an honest, upright man; it will be disagreeable also to the people of the Union, who will always have reason to suspect, that a partiality is shown to the collectors, and other officers of the State to which he belonged. This has absolutely been the case, and was productive of very great dissatisfaction. I would be glad to know of the gentlemen, who are for vesting these powers in a single person, where they will find the man who is capable of performing the duties of a financier? For it is not the mere calling him a financier, and giving him a large salary, that will enable him to perform his functions in such a manner as to give satisfaction. We had once a gentleman who filled such a department, and I believe the only one in the United States who had knowledge and abilities by any means competent to the business; but that gentleman is now employed in another branch of the Government, and cannot be called to this trust. During the late war, Congress thinking it necessary to employ a financier, were led to inquire for a proper character to fill such a office; but not being able to discover such a one in this country, in whose abilities they had sufficient confidence, they wrote to Doctor Price a letter, to induce him to come to America, and accept of an appointment under them, for the superintendence of their finances. He wrote, in answer, that he felt with gratitude the honor which they had done him by their application, and signified, that he was desirous of rendering every service in his power to aid the glorious cause in which America was embarked; but, from his advanced situation in life, and infirmities of body, he was under the necessity of declining. This circumstance serves to show how difficult it is to get a proper person for so arduous an undertaking. But it appears to me, that if we could fix upon a person equal to the office, involving him in forming accounts, and such trifling business, would divert his attention from the more important duties he is called upon to perform. The proper business of finance, I take it, ought to be to consider of the means to improve the revenue, and introducing

economy into the expenditures; to recommend general systems of finance, without having any thing to do with the actual administration of them, because, if he engages in the executive business, we shall be deprived of his talents in more important concerns. If it should be granted that there is a person of abilities to be found, adequate to the duties of the office, I want to know where the advantage arises of appointing him alone in preference to a Board? If you have commissioners, you have an opportunity of taking one from each grand division of the United States, namely, the Eastern, the Middle, and Southern Districts. If this person is a member of the Board, is it not evident you will have every advantage from his abilities in such a situation, as you would if he were placed in office without control? If he was possessed of such genius, he could employ it more usefully as a Commissioner of the Board of Treasury, than when left to perform all the drudgery of the executive part; because while his fine imagination was busied in reducing a chaos to a beautiful system, his colleagues might perform those parts which required less elevation of thought; by dividing the burthen, the business would be done with more regularity and facility. Surely no advantage to the public would arise from giving him the sole management of the business, but much inconvenience might; besides, it must unavoidably, as I said before, subject him to suspicions unfavorable to his reputation. This has absolutely been realized; it is not a mere chimera, a matter of speculation. We have had a Board of Treasury, and we have had a Financier. Have not express charges, as well as vague rumors, been brought against him at the bar of the public? They may be unfounded, it is true; but it shows that a man cannot serve in such a station without exciting popular clamor. It is very well known, I dare say, to many gentlemen in this House, that the noise and commotion were such as obliged Congress once more to alter their Treasury Department, and place it under the management of a Board of Commissioners. We have seen speculations excited from this quarter against the Government itself, and painful insinuations of design by his appointment to the Senate. I mention these circumstances to exhibit to your view the inconveniences to which an officer is subjected by constituting an office of this nature. If the gentleman I have alluded to had been a member of the Board of Treasury, he would not have been subjected to the charges which were brought against him. In such a situation, he could have rendered the services his great abilities enabled him to do, without exposing his character to be torn to pieces by malevolence or detraction.

We are to pay some attention to the prejudices and wishes of our constituents, especially when their sentiments have been strongly declared for or against this or that mode of administration. We find such an officer unprecedented in the several States; and I believe it

MAY 20, 1789.]

Treasury Department.

[H. OF R.]

would not be agreeable to have a single officer, and his assistants, collecting the money, or controlling the revenue arising in those States; yet you make it one of his powers that money shall not be drawn without a warrant from the financier. Here is no person of this kind mentioned in the constitution; not even the President, nor Vice President and Senate, have a control over the Treasury; yet we put all this power into the hands of one great man, who is to be the head of the department. It appears to me, that by so doing, we shall establish an office giving one person a greater influence than the President of the United States has, and more than is proper for any person to have in a republican Government.

Perhaps it may be objected, that we should study economy. If we employ three persons to conduct this business, we shall have to pay them more than would be required for a salary for an individual. But this I take to be a very light consideration, compared with securing the public treasury. A single officer to have the command of three or four millions of money, possesses a power very unsafe in a republic; but I apprehend we may employ three commissioners for the same sum that we shall be obliged to pay for one financier; if we have great officers we must allow large salaries.

I am desirous of supporting the President; but the Senate requires to be supported also in their constitutional rights. To this body belongs the confidence of the States; while the President rests his support upon them he will be secure. They, with this House, can give him proper information of what is for the public interest, and, by pursuing their advice, he will continue to himself that good opinion which is justly entertained of him. If we are to establish a number of such grand officers as these, the consequences appear to me pretty plain. These officers, bearing the titles of minister at war, minister of state, minister for the finances, minister of foreign affairs, and how many more ministers I cannot say, will be made necessary to the President. If by this establishment we make them more respectable than the other branches of the Government, the President will be induced to place more confidence in them than in the Senate; the people will also be led to consider them as more consequential persons. But all high officers of this kind must have confidence placed in them; they will in fact be the chancellors, the ministers of the nation. It will lead to the establishment of a system of favoritism, and the principal magistrate will be governed by these men. An oligarchy will be confirmed upon the ruin of the democracy; a Government most hateful will descend to our posterity, and all our exertions in the glorious cause of freedom will be frustrated: we shall go on till we reduce the powers of the President and Senate to nothing but a name. This surely, sir, does not comport with the conduct of the House. We have been very tenacious of giving a title to the President, lest it

should be implied we desired to increase his power. We would call him by no other appellation than merely President of the United States. I confess I was not such a stickler about titles as all this, because I did not consider that the liberties of the people could be hurt by such means; but I am not clear that the constitution authorizes us to bestow titles; it is not among the enumerated powers of Congress. But if the constitution did authorize it—[A call to order was made by some of the members, and Mr. GERRY was desired to confine himself to the point; the subject of titles was not before the House.] Mr. GERRY proceeded, and said the Senate were constitutionally the highest officers of Government, except the President and Vice-President; that the House was about to supersede them, and place over their heads a set of ministers who were to hold the reins of Government, and all this to answer no good purpose whatever; because the same services could be obtained from subordinate officers.

In short, a Board of Treasury would conduct the business of finance with greater security and satisfaction than a single officer. He had a very good opinion of the gentleman who formerly administered the finances of the United States, and doubted if another of equal qualities could be found; but it was impossible for any person to give satisfaction in such a station. Jealousy would unavoidably be entertained; besides, no inconvenience resulted from the present arrangement of that department; therefore, there could be no good reason to induce a change. If the House was truly republican and consistent, they would not admit officers, with or without titles, to possess such amazing powers as would eventually end in the ruin of the Government. Under these impressions, he moved to amend the resolution so as to read, "there shall be established a Treasury Department, at the head of which there shall be three commissioners, to be denominated the Board of Treasury."

MR. WADSWORTH.—My official duty has led me often to attend at the treasury of the United States, and, from my experience, I venture to pronounce that a Board of Treasury is the worst of all institutions. They have doubled our national debt. (I do not mean by this observation to censure any man who has been in that office: I presume they were honest men, and did as well as could be done under such a system.) But I do not remember a single instance, in any one board, that I found them to have a system that would give even tolerable satisfaction; there appeared a want of confidence in the members of them all: they seemed to have no fixed principles to guide them, nor responsibility for their conduct.

I have had also transactions at the treasury whilst it was managed by a Superintendent of Finance. As to what fell from the gentleman last up, (though without intention, I dare say, to affect or prejudice the character of that officer, it may

H. OF R.]

Treasury Department.

[MAY 20, 1789.]

possibly have such an effect,) I think it necessary to state my sentiments, which are formed from my own experience as well as from report. I had great transactions with him, and must say that there did appear to be system in his management, and responsibility in his negotiations. I dare risk my fortune and character with him, because there was unity in the officer, and somebody in whom I could confide. The nature of the office is better calculated to give satisfaction than the other. I will not pretend to enumerate the savings he made, by introducing economy throughout the whole departments under Congress, because I do not know them all; but they were very considerable. The administration of the finances was clear to the meanest capacity. Receipts and expenditures were stated simply; they were published to the world. The heads of the Treasury Department, the Board of Commissioners, I do not believe have closed their accounts to this very day. I do not say it is for want of ability, will, or honesty, that this event has not taken place. I conceive it to be owing to their want of system in conducting their business. I wish the committee had before them the transactions of the board for one single month; they would find what I have remarked to be too well founded. Instead of system and responsibility, they would find nothing but confusion and disorder, without a possibility of checking their accounts. I know I am heard by one gentleman who is acquainted with these truths by experience.*

I admit the truth of one of the gentleman's observations: he says, the officer must risk his reputation. Yes, sir, an officer who is highly responsible must always risk his character; but a patriot spirit will submit to this to save his country. I know that clamor was raised, as he has said, against the financier; and I know clamor may be excited by envy, as well as by prudence or justice. Clamor has been set up against the office of President, under the present constitution. It is difficult to reconcile suspicious minds to a grant of power, lest it be employed against them. So many men have betrayed their trust, that they can have confidence in none but themselves. But notwithstanding all that has been said with respect to the outcry and disturbance, on account of the finances being directed by a superintendent, I will venture to assert, that it has not been greater than that which was raised against boards. But be that as it may, the public business was better conducted, and the general interests better served; our armies were supplied with certainty and moved with celerity, which was an important object at that period of the war.

I do not know that I have it in my power to justify all the transactions which took place under that administration; but those which came

within my knowledge seemed to be directed with great precision to their object, namely, providing for the public defence and promoting the welfare of the Union. They bespoke their conductor to be master of the science in which he was engaged. The whole accounts of these transactions have been long delivered to Congress, and the reason why they are not decided upon is, because their Board of Treasury has been without power or system to determine on them. I do not wish to hurt the feelings of the gentlemen in that office; I have a high respect for them all, and think any one of them would be equal to the task, individually, which all three together cannot perform.

As to its being unpopular to have a Secretary of the Treasury, I shall only set my opinion against his. I think it the most popular step we can take; it seems to be a prevailing sentiment among all conditions of men, that we ought to have the highest degree of responsibility in every department of Government. As to his being called a minister or a great man, I have little to fear. The people of America will not be scared by men who style themselves most sacred, most omnipotent; and surely the gentleman does not suppose that our Secretary of the Treasury will be the greatest man on earth! If we fear no other, I trust we shall not dread him. As to giving him a large salary, it is hardly possible it would be so much as three commissioners of the treasury would expect. For my part, I see no obligation we are under of giving him a large salary; we shall, I trust, give him a decent one. As to the name of the officer, I shall give that up wholly to the gentleman: he may christen him as he pleases. I will never differ about words when I contend for substance.

I beg leave to repeat once more, that under boards of treasury, there never was a possibility of the public knowing their situation; there is no possibility of getting on with the public accounts and closing them; there has not been the transactions of more than one of the great departments completely settled, owing to a radical defect in their constitution; they cannot proceed with that unity and decision necessary to insure justice. As to what the gentleman said, with respect to the difficulty of getting a proper officer to fill the department, I will just observe, that I do not believe it impossible, and am therefore prepared to attempt it.

Mr. GERRY asked, what he had said that induced the gentleman (Mr. WADSWORTH) to believe it tended to prejudice the reputation of the late financier?

Mr. WADSWORTH replied, that he (Mr. GERRY) had mentioned a clamor raised against him, and that it had not subsided, because his accounts were unsettled; he had therefore endeavored to show the cause to which these circumstances were owing.

Mr. GERRY stated, that if such powers were given to a financier, he would be obnoxious and the people suspicious. These suspicions would

* It is presumable he alluded to Mr. GERRY, a member of a Committee of Congress, appointed to superintend the Treasury.

MAY 20, 1789.]

Treasury Department.

[H. OF R.]

injure his reputation, because it would be out of his power to prove them groundless. I mentioned a fact said to prove this position; the fact is notorious; but I did not mention it with a view to prejudice the gentleman, because I believe the insinuations charged against him in the public papers are without good grounds.

Mr. WADSWORTH had understood the gentleman as he explained himself, but nevertheless the expressions were so loose as to leave suspicion room to maintain its ground; he had recapitulated facts also with an intention to do justice to a character that had been, he apprehended, unjustly and wantonly aspersed.

Mr. BENSON stated, that in the year 1781, from the very great derangement of public affairs, Congress were induced to place the Treasury Department under the superintendence of an individual. It is true, after the conclusion of the war, in the latter end of 1783, or beginning of 1784, Congress again changed their system, and placed the department in the hands of three commissioners, to be taken as the gentleman has said, one from the Eastern, one from the Middle, and one from the Southern district; which regulation I think induced above twenty applications. Some gentlemen on this floor will doubtless recollect an observation that was made at that time, that if this trust had been to be reposed in one responsible individual, not perhaps more than three of the candidates would have had confidence to come forward as applicants for the office.

For his part, he conceived, that it required the same abilities in every individual of the commissioners, as was necessary if a single person was placed at the head of the Department. If men competent to the undertaking are so difficult to be found, you will increase the embarrassment of the President threefold by making the arrangement the gentleman contends for. The principle upon which the gentleman advocates the appointment of a board of treasury, would apply in favor of a change in the constitution, and we ought to have three Presidents of the United States instead of one, because their business might be done with more regularity and facility; but he did not think the argument to be well founded.

If it was the duty of the House to use economy in their establishments, one officer would certainly require less salary than three; however, he believed the arguments of the gentleman were premature. He should not find fault with the duties of the officer, before they were proposed to the consideration of the committee.

The motion under consideration proposed nothing more than a Secretary should be placed at the head of the Department. It said nothing of the duties which he was to perform. When the bill came forward, no doubt, proper checks would be provided to prevent this officer from abusing his trust.

Mr. BALDWIN thought that there were very few gentlemen, who had much to do with public business, but had turned their attention to

this question. He had employed his reflection upon the subject for some time, and his sentiments were against the establishment of a board of treasury. He was persuaded there was not so much responsibility in boards as there was in individuals, nor is there such good ground for the exercise of the talents of a financier in that way. Boards were generally more destitute of energy than was an individual placed at the head of a Department. The observations of the gentleman from Massachusetts were of great weight, so far as they inferred the necessity of proper checks in the department having care of the public money; if they had system, energy, and responsibility, he should be in favor of them; but his experience had convinced him of the contrary. He was not an advocate for an unlimited authority in this officer. He hoped to see proper checks provided; a Comptroller, Auditors, Register, and Treasurer. He would not suffer the Secretary to touch a farthing of the public money beyond his salary. The settling of the accounts should be in the Auditors and Comptroller; the registering them to be in another officer, and the cash in the hands of one unconnected with either. He was satisfied that in this way the treasury might be safe, and great improvements made in the business of revenue.

Mr. MADISON had intended to have given his sentiments on this subject; but he was anticipated in some things by the gentleman last up. He wished, in all cases of an executive nature, that the committee should consider the powers that were to be exercised, and where that power was too great to be trusted to an individual, proper care should be taken so to regulate and check the exercise, as would give indubitable security for the perfect preservation of the public interest, and to prevent that suspicion which men of integrity were ever desirous of avoiding. This was his intention in the present case. If the committee agreed to his proposition, he intended to introduce principles of caution, which he supposed would give satisfaction on that point. As far as was practicable, he would have the various business of this important branch of the Government divided and modified, so as to lull at least the jealousy expressed by the gentleman from Massachusetts; indeed he supposed, with the assistance of the committee, it might be formed so as to give satisfaction. He had no doubt but that the offices might be so constituted as to restrain and check each other; and unless an unbounded combination took place, which he could by no means suppose was likely to be the case, that the public would be safe and secure under the administration. He would favor the arrangement mentioned by the worthy gentleman from South Carolina (Mr. BALDWIN), and after that was separated from the Secretary's duties, he believed the officer would find sufficient business to employ his time and talents in rendering essential services to his country. This arrangement he considered would answer most of the objections which had been urged.

If a board is established, the independent offi-

H. of R.]

Treasury Department.

[MAY 20, 1789.]

cers of Comptroller and Auditor are unknown; you then give the aggregate of these powers to the board, the members of which are equal; therefore you give more power to each individual than is proposed to be trusted in the Secretary; and if apprehensions are to be entertained of a combination, they apply as forcibly in the case of two or three commissioners combining, as they do in the case of the Secretary, Comptroller, and other officers. If gentlemen permit these sentiments to have their full weight, and consider the advantages arising from energy, system, and responsibility, which were all in favor of his motion, he had no doubt of their according with him on this question.

Mr. GERRY.—If an individual has a control over the Treasury Department; if no money can be received or expended but by him, or on his warrant, he did not see any check which could be provided to prevent a misapplication of such powers, nor any means by which a man could demonstrate he had preserved his integrity. He thought these things were better guarded under a board, and therefore preferred one. Gentlemen, to be sure, had asserted there was no responsibility in a board; he denied the fact. A board of three commissioners are surely as responsible for their measures as an individual for his; each person of them is responsible for the act of the board, or, if one of them should deny his acquiescence to the matter in question, the charge may be determined by having recourse to the journal of their transactions, because whenever an order or resolution takes place, they enter their names for or against the measure in their books. These circumstances show they are responsible; and undoubtedly there is more security in having three persons consulted, than confiding all to the uncontrolled caprice of a single individual. He did not see the necessity of an officer to improve the revenue; that he took to be the peculiar business of the Federal Legislature. He could answer to the gentleman (Mr. BENSON) who applied the principles he urged in favor of a board against the constitution. It might with equal justice be said, that gentlemen, who contended for a Secretary of the Treasury, desired to have a single legislator; one man to make all laws, the revenue laws particularly, because among many there is less responsibility, system, and energy; consequently a numerous representation in this House is an odious institution.

Mr. BOUNDINOR considered the question to be, whether the department should be under the direction of one or more officers. He was against boards, because he was convinced by experience that they are liable to all the objections which gentlemen had stated. He wished the committee had it in their power to turn to the transactions of this department since the revolution, to examine the expenditures under former boards of treasury, and under the Superintendent of Finance; it would so confound them, that he was sure no gentleman would offer another argument in favor of boards.

He was not acquainted with the management under the present board. He had not been in the habit of doing business with them. But between the administration of the former and the Superintendent of Finance, there was an intolerable comparison. He was far from being astonished at the jealousy and suspicion entertained of that valuable officer; he rather wondered that the clamor was not more loud and tremendous. He could not repeat all the causes there were for accusation against him, but surely they were not inconsiderable. He remembered one hundred and forty-six supernumerary officers were brushed off in one day, who had long been sucking the vital blood and spirit of the nation. Was it to be wondered at, if this swarm should raise a buzz about him? The reform which daily took place made him no inconsiderable number of enemies. The expenditures under the Board of Treasury had been enormous. They were curtailed in the quartermasters, commissaries of provision and military stores, in the hospital, and every great department established by Congress; so that, besides those who were offended by a removal, every one who was affected by this economy, or parsimony, if they will call it so, were incensed against him. It was impossible to gain friends among those people by a practice of this kind. He would state a circumstance which might give the committee some small idea of what the savings under the Superintendent were. The expenditure of hay at a certain post was one hundred and forty tons; such was the estimate laid before him; yet twelve tons carried the post through the year, and the supply was abundant, and the post was as fully and usefully occupied as it had ever been before.

He wished gentlemen to examine whether the other arguments did not preponderate in favor of a single administration. He thought that there was certainly more responsibility and system likely to be acquired in this way than in the other. He saw no weight in the objections stated by the gentleman, respecting the collusion between the Secretary and the Collectors; but if there was any weight in them, he imagined they applied with equal force against boards. The commissioners were men equally fallible and exposed as the Secretary, Comptroller, and Auditors.

The gentleman had asked, where a proper character for a financier was to be found? America has seen one man equal to the task; but he would not undertake to say that that gentleman was the only one fit for the business. If talents of this kind were hard to be found, he was for establishing the department in this way, in order to bring up men to a knowledge of this science. He had no idea of sending to a foreign nation for a person; it would be dishonorable to the United States. But he could not believe any foreigner adequate to the business. The utility of this officer consists in his knowledge of the manners, habits, customs, wealth, and pursuits; the temper, genius, and disposition of the people. This cannot be acquired but by a

MAY 22, 1789.]

Contested Election.

[H. OF R.]

long residence and actual observation. A foreigner has not this advantage, and therefore must be unfit to direct the finances of America.

Mr. BLAND thought the decision of the House would depend upon the propriety of the powers which were annexed to the office, and the checks and restraints to which the whole of the department was subjected. Hence he thought they were taking the business up at the wrong end. He joined gentlemen in thinking the management of the public money was a matter of the most serious consideration, in which every citizen was more or less concerned. If a man were to be placed at the head of this department, without check or control, he would be a dangerous officer; but if his powers could be effectually restrained from doing the public an injury, he thought he might be rendered serviceable. Under these impressions, he had essayed to define the powers proper to be given. If they met the approbation of the committee, he was ready to vote in favor of the clause, adding thereto a Board of Commissioners.

Mr. GERRY joined the gentleman last up: he thought the powers ought first to be determined, because, after the committee had consented to have such an officer, gentlemen might insist upon such powers as would render him improper; in which case, gentlemen will have committed themselves, and cannot decently retract.

Mr. VINING thought there was an unnatural combination intimated by the gentleman from Virginia. (Mr. BLAND.) He could by no means think of uniting a Financier and Board of Treasury. He was sorry to hear the anecdote mentioned by the gentleman from Massachusetts. Is it to be supposed that we have no character in America fit for a place at the head of our Treasury? Are we to send to England for Doctor Price? Much as he valued and respected that character, he should be sorry to see him preside in one of the great departments of Government. He felt the humiliation so sensibly, that he should never again boast of the genius or abilities of his country. But he believed that event took place for want of information; because experience had convinced the world that America possessed a man equal to the arduous undertaking. He did not doubt that, on inquiry, many more might be found adequate to the business.

Mr. GERRY did not look upon it as derogatory to the dignity of the United States to look abroad for men of merit to perform their services. During the late war, they had employed useful officers in the army, who taught tactics to the troops. Finance was a system requiring time and attention in its acquirement. The kingdoms in Europe were not above seeking out and employing men of abilities in this way, although they were unqualified by law to hold any office. Did the King of France refuse the service of Necker because he was a protestant, and his father an alien? He was equally tenacious of the honor of his countrymen with the gentleman from Delaware, but he thought it no dis-

paragement to them to say they were not well acquainted with the most abstruse science in the world, which they never had any necessity to study.

The question on the amendment proposed by Mr. GERRY was taken and lost; after which the resolutions respecting the Treasury and War Department, as proposed by Mr. MADISON, were both agreed to.

Mr. VINING then proposed the establishment of the Domestic Department upon the same principles; but, on motion of Mr. BOUDINOT, the committee rose and reported the resolutions agreed to.—Adjourned.

THURSDAY, May 21.

EXECUTIVE DEPARTMENTS.

The House proceeded to consider the resolution reported yesterday from the Committee of the whole House on the state of the Union, and the same being amended to read as follows:

Resolved, That it is the opinion of this committee that there ought to be established the following executive departments, viz. A Department of Foreign Affairs, at the head of which shall be an officer to be called Secretary to the United States for the Department of Foreign Affairs, removable by the President. A Treasury Department, at the head of which shall be an officer to be called Secretary to the United States for the Treasury Department, removable by the President. A Department of War, at the head of which shall be an officer to be called Secretary to the United States for the Department of War, removable by the President.

Resolved, That this House doth concur with the committee in the said resolution; and that a committee, to consist of eleven members, be appointed to prepare and bring in a bill or bills pursuant thereto.

The members elected were, Mr. BALDWIN, Mr. VINING, Mr. LIVERMORE, Mr. MADISON, Mr. BENSON, Mr. BURKE, Mr. FITZSIMONS, Mr. BOUDINOT, Mr. WADSWORTH, Mr. GERRY, and Mr. CADWALADER.

Mr. CLYMER, from the Committee of Elections, to whom it was referred to report a proper mode of investigation and deciding on the petitions of a number of the citizens of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State, made a report, which was read and ordered to lie on the table.

The House proceeded to consider the report from the Committee of Elections, stating the proofs of the facts charged in the petition of David Ramsey, suggesting that WILLIAM SMITH, returned a member of this House for the State of South Carolina, was, at the time of his election, ineligible, by reason that he had not been seven years a citizen of the United States.—Adjourned.

FRIDAY, May 22.

CONTESTED ELECTION.

The House resumed the consideration of the report on Mr. SMITH's case.

H. OF R.]

Contested Election.

[MAY 22, 1789.]

Mr. LAWRENCE moved the recommitment of the report, with instructions to the committee, to examine and report facts arising from the proofs, in order to save the time of the House in the inquiry.

Mr. LIVERMORE objected to this motion, and said, if he was to decide upon Mr. SMITH's eligibility, he would hear the evidence, and not commit to any man whatsoever to inquire for him.

After some desultory conversation on the re-commitment and mode of proceeding, it was agreed to examine the evidence in favor of Mr. SMITH, the facts alleged by Doctor Ramsey, in proof that Mr. SMITH was not seven years a citizen of the United States, being admitted. Whereupon, it being moved and seconded, that the House do agree to the following resolution:

Resolved, That it appears to this House, upon full and mature consideration, that the said WILLIAM SMITH had been seven years a citizen of the United States, at the time of his election.

Mr. SMITH.—As the House are inclined to hear the observations I have to make, I shall begin with admitting the facts stated in the memorial of Doctor Ramsey, hoping the House will excuse the egotism into which I am unavoidably drawn. I was born in Charleston, South Carolina, of a family whose ancestors were among the first settlers of that colony, and was sent to England for my education when I was but twelve years of age. In 1774, I was sent to Geneva, to pursue my studies, where I resided until 1778. In November, that year, I went to Paris, where I resided upwards of two months in the character of an American gentleman. Immediately on my arrival there, I waited on Doctor Franklin, Mr. Adams, and Mr. A. Lee, the commissioners from Congress to the court of France, as a citizen of America, and was received as such by them. In January, 1779, I left Paris for London, whither I went to procure the means of embarking for America, from the gentleman who had been appointed my guardian by my father when I was first sent to Europe in 1770, and from whom alone I had any hope of obtaining such means. But in this endeavor, I was disappointed, and remained some time in England, with the hope of receiving remittances from Charleston. Here again my expectation was defeated. The rapid depreciation of the continental money rendered the negotiation of money transactions extremely difficult, and thus I remained till the fall of Charleston. I took this opportunity of studying the law, but could not be called to the bar, because I had not taken the oath of allegiance to Great Britain, which is a necessary qualification. After the surrender of Charleston, the whole State of South Carolina, fell into the hands of the enemy, and it was impossible at that time to return. No sooner, however, did I acquire the means, and an opportunity offered, than I prepared myself to go back to America. I quitted London for that

purpose in October or November, 1782, not in a vessel bound to Charleston, then a British garrison, and which I certainly should have done, had I considered myself a British subject, and which would have been most convenient, as there were vessels constantly going from London to Charleston; but I travelled to Ostend, and there embarked in a neutral vessel bound to St. Kitt's, from whence it was my intention to proceed to a Danish island, and thence to some American port in North Carolina or Georgia, from whence I could reach the American camp. In the beginning of January, 1783, I sailed from Ostend, but was detained a considerable time by contrary winds, and in the middle of the month of February, was shipwrecked on the coast of England, and was obliged to return to London in order to procure another passage. These circumstances unavoidably prevented my return to Charleston, until some time in November, 1783.

On my arrival at Charleston, I was received by my countrymen as a citizen of the State of South Carolina, and elected by their free suffrage a member of the Legislature in November, 1784. In the August following I was chosen, by the Governor and Council, a member of the Privy Council, and this election was confirmed by the Legislature the October following. In September, the same year, I was elected one of the Wardens of the City of Charleston. In November, 1786, I was again elected into the Legislature; again in November, 1788; I was elected at the same time that I was elected to the House of Representatives of the United States, the September preceding having been chosen again a Warden of the city.

After having stated these facts, he went on adverting to the laws referred to in the report of the committee, which, he said, he conceived to be applicable to the present case.

In September, 1779, a question was discussed in the Legislature of South Carolina, respecting the young men who were sent abroad for their education, and it was determined that it was most for the interest of the State, that they should be allowed to continue in Europe till they were twenty-two years of age; after which the law provided they should be doubly taxed if they did not return. This law might fairly be supposed to recognise the citizenship of all the young men in a similar predicament with himself. It allowed them all to be absent until they were twenty-two years of age; but even after that period it did not deprive them of the right of citizenship; it only subjected them to the penalty of a double tax. This he contended was a sort of compact with him, that if he chose to be absent after that time, he should suffer a certain penalty, which, in its own nature, implied that his citizenship remained; but before he attained that age, South Carolina was in such a situation that her best friends were compelled to be absent, and take refuge in distant countries. It was not till some time after that the friends of the American

MAY 22, 1789.]

Contested Election.

[H. OF R.]

cause began to assemble in that State; the absentee law, therefore, never operated on him, and he never was doubly taxed.

In February, 1782, the Legislature met at Jacksonburg, and discriminated between friend and foe, between American and British subjects, by disposing of the estates of the latter, and banishing them; from an inspection of the law passed at that time, it would be evident in what light they viewed him. He had landed property in the State, but was himself in England; yet they did not attempt to confiscate his property, or subject him to an amercement. The absentee law was his safeguard, he had the permission of the State to be abroad.

If the Legislature in 1782 recognised as citizens some of those persons whose estates were confiscated for adhering to Great Britain, and for being disaffected to America *a fortiori*, did it not recognise as a citizen one whose estate was not forfeited, who had not been deemed worthy of punishment, and who had been absent under the sanction of the law?

By the constitution of South Carolina it appears, that no person was eligible to a seat in the Legislature until he had resided three years, nor to a seat in the Privy Council until he had resided five years in the State. He had a seat in both those bodies before he had resided two years in the State of South Carolina, and no objection was ever made on that score. He could not have been qualified for either, had not the people of South Carolina deemed his residence in that State, such a residence as gained him a qualification; or had they not supposed the qualification required in the constitution applied only to new comers and new citizens, for whom that residence was necessary to wean them from their local prejudices and national habits, and to attach them to the commonwealth. Had they not, in short, supposed him to have been a citizen during the revolution, and attached to his native State by every tie which could bind an individual to any country. Three years residence was either not required of him, or his former residence was deemed within the meaning of the constitution.

An act to confer the right of citizenship on aliens was passed March 26, 1784. For the purpose of possessing the subordinate rights of citizenship, such as an exemption from the alien duty, a residence of one year, and taking the oath of allegiance, was sufficient. To confer a right of voting at elections, a person must have been admitted a citizen two years prior to his voting; but for the higher privileges of a citizen, being eligible to offices of trust, to a seat in the Legislature and Privy Council, the alien must have been naturalized by law. Now, in November, 1784, he was elected into the Legislature, and took his seat without objection in January, 1785, and was elected into the Privy Council, October, 1785; all without being naturalized by law.

In October, 1785, when he was elected to

the Council, his election was opposed, but the objection now brought forward was not then made; and the memorialist himself, who was a member of the Legislature, voted in favor of the choice; though, unquestionably, unless he was considered by the Legislature as a citizen before he returned to Charleston, nothing had afterwards occurred to make him so, and the alien act of 1784 positively required a naturalization by act of Assembly to give him a qualification.

The constitution of South Carolina is silent as to citizenship, but allowed any person to vote at elections who had resided a year in the State, and paid a certain tax; to be a member of the Assembly he must have resided three, and to be a Privy Counsellor five years previous to his election, but nothing was said about citizenship. The act of 1784, however, expressly defined who should and who should not be deemed citizens; and, consequently, all persons who did not become citizens must have been held to be aliens, and considered so, till they had conformed to the alien act of 1784. Now, as he was admitted to offices of trust, to which aliens were not admissible, and as he was admitted to them without having the rights of citizenship conferred upon him, in pursuance of that act, it followed clearly, that the people of South Carolina and the Legislature acknowledged him to be a citizen by virtue of the revolution.

He went on to observe, that, from the doctrine laid down by the memorialist, it was difficult to ascertain when he did become a citizen of South Carolina. When he was admitted to the bar in 1784, he did no act which made him a citizen, the bare act of taking an oath of qualification to an office could not convert an alien to a citizen. The constitution seemed to imply a mere residence of a year, by giving a right to vote, gave a right of citizenship; if that were the case, and if his residence prior to the revolution was considered such a residence as the constitution required, then he was a citizen, by virtue of the constitution, after having resided a year in Carolina. Now, it was clear, his residence prior to the war was deemed such a residence as the constitution required; because he was admitted to vote and admitted to a seat in the Legislature and Council by right of such residence, not having had the requisite residence since the war, and yet being deemed qualified. If, therefore, that part of the constitution which gave a right of voting, in consequence of a year's residence and paying a certain tax, virtually conferred citizenship, by giving a right to vote, (and it appeared absurd that a right to vote should be given to persons not citizens,) and if, also, his residence, prior to the revolution, was deemed a sufficient residence, then he was a citizen by virtue of the constitution.

The points that seemed most to be relied upon by the memorialist were:

1st. That residence was actually necessary

to confer citizenship, or, in other words, that a person could not become a citizen of a country, till he has resided in it.

2d. That a person could not become a citizen till he was of age to choose his country.

In answer to the first, he denied that residence in the country was absolutely necessary. Was it to be supposed, he asked, that when a man sent his son into another country for his education and improvement, the son was thereby to lose any political benefits which might, during such temporary absence, accrue to his country? If his father had lived a few years longer, would there have arisen any question on this subject? Would he not, though absent, have acquired, according to the petitioner's own positions, a right of citizenship? And should his death, at such an early period, not be deemed a sufficient misfortune for him, without using that as a pretence for making him an alien? Those who represented him in Carolina as his guardians, who were *in loco parentis*, were residents in Carolina at the declaration of independence.

His property was in Carolina, his money in the treasury, assisting to carry on the war. The declaration of independence affected him as much, though at Geneva, as it did those in Carolina; his happiness, that of his dearest connexions, his property, were deeply interested in it: his fate was so closely connected with that of Carolina, that any revolution in Carolina was a revolution to him. Though a minor, as soon as he heard of the independence of America, he considered himself an American citizen.

If a person could not become a citizen of a country without residing in it, what should be said of those gentlemen who had been in Europe during the war, and were now in high office in America? Several of them went to Europe before the war, were there at the declaration of independence, and did not return to America till after the war, or about the close of it. When did their citizenship commence? According to the petitioner, they could not become citizens of America until they returned to America, and took an oath of allegiance to the States; but Congress employed them in offices of great confidence, before they had returned to America, or taken such oath. Congress, therefore, considered them citizens, by virtue of the revolution.

It had been said, that Carolina had called on her young men to come to her assistance. This was not the true state of the case. Carolina thought that her young men who were abroad for their education, should not be taken from their studies till they were twenty-two years of age, and doubly taxed them after that. His guardian wrote to him that he had permission of the Legislature to be absent till he was twenty-two, and that he should be doubly taxed after that age.

It has been also said, that Carolina tendered an oath, to discover who were friends, and who were enemies. In March, 1778, the Le-

gislature of South Carolina passed an act to oblige every free male inhabitant of that State, above sixteen years of age, to take an oath of allegiance to the State. As there were notoriously many persons then in the State who were inimical to its liberties, such a step was necessary to give a reasonable cause for obliging them to quit the country. With that view, the oath was generally tendered only to those who were suspected or known not to be friendly to the cause. He had been informed by several persons, who were zealous partisans, and then in Carolina, that they had never taken any oath of allegiance, and that it had not been required of them on this occasion.

The act directed, that those who did not take it, should quit the State; and, if they returned, should be dealt with as traitors, and suffer death. Let us examine whether this act can, in any respect, apply to the present question. 1st, It particularly mentioned "inhabitants of the State of South Carolina." It could not, therefore, apply to persons who were abroad. 2dly, It directed that the oath should be taken before a justice of peace in Carolina; this could not, therefore, extend to a person then at Geneva. 3dly, It was directed to be taken in one month after the passing of the act; and it was not possible that I should hear of the existence of such an act in less than three months. 4thly, It was directed, that if the persons refused to take it, they should quit the State; but I was already out of it. 5thly, Those who refused to take it, were prevented from acquiring or conveying property, and rendered incapable of exercising any profession. But on my return to Carolina, I took peaceable possession of my estate, part of which consisted of lands and houses, which had been mine since the year 1770; and I was immediately admitted to the exercise of the profession for which I was educated. 6thly, The act directed, that if any person returned to Carolina, after having refused to take the oath, he should be put to death as a traitor; and, yet, on my return, never having taken the oath, I was elected a member of the Legislature, and a Privy Counsellor; and, instead of being deemed a criminal myself, I acted as Attorney General to punish others; and yet the petitioner, in one of his late publications, lays great stress on the applicability of this act.

2dly, There could be no doubt that a minor might be a citizen, from the very words of the constitution, which admitted a person to be a member of the House of Representatives at twenty-five, and yet required a citizenship of seven years. This was of itself a sufficient refutation of every thing contained in the petition on this head. The constitution acknowledged that a person might be a citizen at eighteen; if so, there was no reason why a person might not be one at sixteen or fourteen.

Mr. LEE said, the committee had now to determine, whether Mr. SMITH was a citizen of South Carolina during his absence from home,

MAY 22, 1789.]

Contested Election.

[H. OF R.]

or not. If the laws of that State recognised him as such, the question was determined, because this House could not dispute a fact of that kind. From the reference that has been made to the constitution and laws of South Carolina, and the circumstances which took place under them, with respect to Mr. SMITH, it was convincing that he was acknowledged there to be a citizen in consequence of the revolution.

Mr. THATCHER thought the examination had been full; the facts stated in the memorial were admitted; but, nevertheless, it appeared from other facts, that Mr. SMITH was received and respected as a citizen of that standing which the constitution required. He had considered the subject maturely, and was now ready for the decision.

The petition of Dr. Ramsey was again read, in which he stated, "That citizenship with the United States is an adventitious character to every person possessing it, who is now thirty years of age; and that it can, in no case, have been acquired but in one of the following modes: 1st, By birth or inheritance. 2dly, By having been a party to the late revolution. 3dly, By taking an oath of fidelity to some of the States. 4thly, By tacit consent. 5thly, By adoption; and that Mr. SMITH cannot have acquired the character of a citizen in either of these modes, seven years ago. He cannot be a citizen by birth or inheritance, for he was born in 1758, in South Carolina, while a British colony; and his parents were both dead many years before the declaration of independence; his birth-right and inheritance can, therefore, be no other than that of a British subject; for no man can be born a citizen of a Government which did not exist at the time of his being born; nor can parents leave to their children any other political character than that which they themselves possessed."

After going on to state his reasons why Mr. SMITH could not have acquired citizenship in any of the other modes, he proceeds to say, that he "conceives that birth and residence in this country, before the revolution, could not confer citizenship on Americans who were absent when independence was declared, while they were absent, and anterior to their returning and joining their country under its new and independent Government: for, on that supposition, many persons hostile to these States must be admitted citizens; those who have been born for thirteen years before the declaration of independence, within the posts of our north-western frontiers, which are unjustly detained from us by the British, would be citizens. Our East India trade would be laid open to the numerous natives of this country, who are now dispersed over Europe and the West Indies: If birth and residence within the limits of the United States before the revolution conferred the rights of citizenship, persons of the aforesaid description, who have neither done nor hazarded any thing for our independence,

might trade to the East Indies as citizens of the United States, from the circumstance of their having been born in this country thirty or forty years ago, and, after having glutted our market with extravagant importations, carry the whole profits of their commerce to their present residence in foreign countries. These, and many other dangerous consequences, would, as your petitioner apprehends, follow from the establishment of a precedent, by which it was acknowledged, that a native of this country might be a citizen of the United States before he lived under their Government."

Mr. MADISON.—I think the merit of the question is now to be decided, whether the gentleman is eligible to a seat in this House or not; but it will depend on the decision of a previous question, whether he has been seven years a citizen of the United States or not.

From an attention to the facts which have been adduced, and from a consideration of the principles established by the revolution, the conclusion I have drawn is, that Mr. SMITH was, on the declaration of independence, a citizen of the United States; and unless it appears that he has forfeited his right, by some neglect or overt act, he had continued a citizen until the day of his election to a seat in this House. I take it to be a clear point, that we are to be guided, in our decision, by the laws and constitution of South Carolina, so far as they can guide us; and where the laws do not expressly guide us, we must be guided by principles of a general nature, so far as they are applicable to the present case.

It were to be wished, that we had some law adduced, more precisely defining the qualities of a citizen or an alien; particular laws of this kind have obtained in some of the States; if such a law existed in South Carolina, it might have prevented this question from ever coming before us; but since this has not been the case, let us settle some general principle before we proceed to the presumptive proof arising from public measures under the law, which tend to give support to the inference drawn from such principles.

It is an established maxim, that birth is a criterion of allegiance. Birth, however, derives its force sometimes from place, and sometimes from parentage; but, in general, place is the most certain criterion; it is what applies in the United States; it will, therefore, be unnecessary to investigate any other. Mr. SMITH founds his claim upon his birthright; his ancestors were among the first settlers of that colony.

It is well known to many gentlemen on this floor, as well as to the public, that the petitioner is a man of talents, one who would not lightly hazard his reputation in support of visionary principles: yet I cannot but think he has erred in one of the principles upon which he grounds his charge. He supposes, when this country separated from Great Britain, the tie of allegiance subsisted between the inhabitants of

H. or R.]

Contested Election.

[MAY 22, 1789.]

America and the King of that nation, unless, by some adventitious circumstance, the allegiance was transferred to one of the United States. I think there is a distinction which will invalidate his doctrine in this particular, a distinction between that primary allegiance which we owe to that particular society of which we are members, and the secondary allegiance we owe to the sovereign established by that society. This distinction will be illustrated by the doctrine established by the laws of Great Britain, which were the laws of this country before the revolution. The sovereign cannot make a citizen by any act of his own; he can confer denizenship; but this does not make a man either a citizen or subject. In order to make a citizen or subject, it is established, that allegiance shall first be due to the whole nation; it is necessary that a national act should pass to admit an individual member. In order to become a member of the British empire, where birth has not endowed the person with that privilege, he must be naturalized by an act of Parliament.

What was the situation of the people of America, when the dissolution of their allegiance took place by the declaration of independence? I conceive that every person who owed this primary allegiance to the particular community in which he was born, retained his right of birth, as a member of a new community; that he was consequently absolved from the secondary allegiance he had owed to the British sovereign. If he were not a minor, he became bound, by his own act, as a member of the society who separated with him from a submission to a foreign country. If he were a minor, his consent was involved in the decision of that society to which he belonged by the ties of nature. What was the allegiance, as a citizen of South Carolina, he owed to the King of Great Britain? He owed his allegiance to him as a King of that society to which, as a society, he owed his primary allegiance. When that society separated from Great Britain, he was bound by that act, and his allegiance transferred to that society, or the sovereign which that society should set up; because it was through his membership of the society of South Carolina that he owed allegiance to Great Britain.

This reasoning will hold good, unless it is supposed that the separation which took place between these States and Great Britain, not only dissolved the union between those countries, but dissolved the union among the citizens themselves: that the original compact, which made them altogether one society, being dissolved, they could not fall into pieces, each part making an independent society; but must individually revert into a state of nature; but I do not conceive that this was, of necessity, to be the case; I believe such a revolution did not absolutely take place. But in supposing that this was the case, lies the error of the memorialist. I conceive the colonies remained as a political society, detached from their former connexion with another society, without dissolving

into a state of nature; but capable of substituting a new form of Government in the place of the old one, which they had, for special considerations, abolished. Suppose the State of South Carolina should think proper to revise her constitution, abolish that which now exists, and establish another form of Government: surely this would not dissolve the social compact. It would not throw them back into a state of nature. It would not dissolve the union between the individual members of that society. It would leave them in perfect society, changing only the mode of action, which they are always at liberty to arrange. Mr. SMITH being then, at the declaration of independence, a minor, but being a member of that particular society, he became, in my opinion, bound by the decision of the society, with respect to the question of independence and change of Government; and if afterwards he had taken part with the enemies of his country, he would have been guilty of treason against that Government to which he owed allegiance, and would have been liable to be prosecuted as a traitor.

If it be said, that very inconvenient circumstances would result from this principle, that it would constitute all those persons who are natives of America, but who took part against the revolution, citizens of the United States, I would beg leave to observe, that we are deciding a question of right, unmixed with the question of expediency, and must, therefore, pay a proper attention to this principle. But I think it can hardly be expected by gentlemen that the principle will operate dangerously. Those who left their country, to take part with Britain, were of two descriptions—minors, or persons of mature age. With respect to the latter, nothing can be inferred with respect to them from the decision of the present case; because they had the power of making an option between the contending parties; whether this was a matter of right or not is a question which need not be agitated in order to settle the case before us. Then, with respect to those natives who were minors at the revolution, and whose case is analogous to Mr. SMITH's, if we are bound by the precedent of such a decision as we are about to make, and it is declared that they owe a primary allegiance to this country, I still think we are not likely to be inundated with such characters; so far as any of them took part against us, they violated their allegiance; and opposed our laws; so, then, there can be only a few characters, such as were minors at the revolution, and who have never violated their allegiance by a foreign connexion, who can be affected by the decision of the present question. The number, I admit, is large who might be acknowledged citizens on my principles; but there will very few be found daring enough to face the laws of the country they have violated, and against which they have committed high treason.

So far as we can judge by the laws of Caro-

MAY 22, 1789.]

Contested Election.

[H. OF R.]

lina, and the practice and decision of that State, the principles I have adduced are supported; and I must own, that I feel myself at liberty to decide, that Mr. SMITH was a citizen at the declaration of independence, a citizen at the time of his election, and, consequently, entitled to a seat in this Legislature.

Mr. BOURNOR expressed an apprehension, that the principle supported by the gentleman from Virginia would tend to injure the State of New Jersey very considerably. He was afraid it would be construed to embrace all the natives of America who had deserted their country's cause during the late war; and, on this account, he was against deciding in favor of the proposed resolution, though he believed Mr. SMITH to be fairly and constitutionally entitled to a seat in that House.

Mr. JACKSON.—I differ widely from the gentleman from Virginia (Mr. MADISON) on the subject of allegiance and the social compact, and hold the principles advanced by him exceedingly dangerous to many of the States, and, in particular, to the one I have the honor to represent. The situation of America, at the time of the revolution, was not properly to be compared to a people altering their mode or form of Government. Nor were there two allegiances due, one to the community here, another to that of Great Britain. We were all on a footing; and I contend the principle is right, in some degree, of a total reversion to a state of nature amongst individuals, and to a mere parental or patriarchal authority, where the heads had families dependent on them; the former, or individual, pursued that line which appeared right in his own eyes, and the cause which he thought just; and, in the latter case, the children followed the will of the father, who chose for them, as the person who brought them into life, and whose fortunes they were to inherit. I conceive the whole allegiance or compact to have been dissolved. Many of the States were a considerable period without establishing constitutions or forms of Government, and during that period we were in a little better state than that of nature; and then it was, that every man made his election for an original compact, or tie, which, by his own act, or that of his father for him, he became bound to submit to. And what, sir, would otherwise be the result? And if the gentleman's doctrines of birth were to be supported, those minors who, with British bayonets, have plundered and ravaged, nay, cruelly butchered their more virtuous neighbors—the sons of the most inveterate traitors, whose names deservedly sounded in every bill of confiscation; and the minors, sons of those who sheltered themselves under the shade of the British King, and supported his armies, if not with arms, with the resources of war, until the hour of danger was over—those, I say, after the blood of thousands has been spilt in the establishment of our Government, can now come forward and sneer at the foolish patriots, who endured every hardship of a seven years'

war, to secure to them the freedom and property they had no hand in defending. Sir, did we fight for this? Was it for this the soldier watched his numerous nights, and braved the inclemency of the seasons? Will he submit, after having gained his point at the expense of property and the loss of constitution, to have those sentiments established? If he will, he has fought to little purpose indeed.

Sir, I again contend, that when the revolution came on, we were all alike with respect to allegiances, and all under the same social tie. An Englishman born did not conceive himself more liable to be condemned for treason than an American, had the enemy succeeded; nor would there have been any distinction in the laws on coming to a trial. But, sir, how should this primary allegiance be known to belong to the less, or American community, where the majority did not prevail. In Georgia, the majority were opposed to American measures; agreeably to the gentleman's reasoning, the minors must have been all on the British side; and yet many of them, on arriving to years of discretion, behaved well and valiantly with us. To corroborate this, sir, I will remark, that, for a considerable period, we had no general or federal Government, or form of constitution, and yet were in arms. I would ask what state we were in then? Neighbor was against neighbor, and brother against brother. But, sir, the gentleman says, the hardened minor will not return. Sir, experience has proved the contrary. The Middle and Eastern States, except Pennsylvania, New Jersey, and New York, never had the enemy long with them; there was not the same trial of men, and they knew not the audacity of those villains. After having received their equivalent for, in many cases, feigned losses, from the British crown, they are daily returning and pushing into office. It is necessary we should guard against them. Britain, although humiliated, yet has a longing eye upon this country; she has yet posts in it. Although it is improbable that so many of these people will get into Congress as to form a corrupt majority, yet they have ambition and resentment enough to attempt it. At this moment, sir, in Georgia, are some of the most daring bringing ejectments for estates which their fathers had deservedly forfeited, although themselves had imbrued their hands in the blood of their fellow citizens.

Now, to the present case: Highly as I regard the gentleman (Mr. SMITH) as a valuable member, and esteem his abilities, I can only form my opinion on the leave given him by the State to be absent. If that principle is introduced into the resolution, I will vote in favor of Mr. SMITH's eligibility; but if not, I must decline voting.

Which he accordingly did when the question was put.

Mr. TUCKER hoped that the yeas and nays would be taken on this question, not because he had any doubt in his own mind of Mr. SMITH's

H. OF R.]

Duties on Tonnage.

[MAY 28, 1789.]

right to a seat, but because he had been solicited by Dr. Ramsay to have the yeas and nays taken.

The yeas and nays were taken, as follows:

YEAS.—Messrs. Baldwin, Benson, Boudinot, Cadwalader, Carroll, Clymer, Coles, Contee, Fitzsimons, Floyd, Gilman, Goodhue, Henster, Huntington, Lawrence, Lee, Leonard, Livermore, Madison, Moore, Muhlenburg, Page, Van Rensselaer, Sency, Schureman, Scott, Sinnickson, Smith, of Maryland, Sturgis, Sylvester, Thatcher, Trumbull, Tucker, Vining, White, and Wynkoop.

Jonathan Grout voted in the negative.

Adjourned until Monday.

MONDAY, May 25.

THOMAS SUMTER, from South Carolina, appeared and took his seat.

NEW JERSEY ELECTIONS.

The House proceeded to consider the report from the Committee of Elections, to whom it was referred, to report a proper mode of investigation and decision on the petition of a number of the citizens of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State; and the said report being amended to read as followeth:

That it will be proper to appoint a committee before whom the petitioners are to appear, and who shall receive such proofs and allegations as the petitioners shall judge proper to offer in support of their said petition, and who shall, in like manner, receive all proofs and allegations from persons who may be desirous to appear and be heard in opposition to the said petition, and to report to the House all such facts as shall arise from the proofs and allegations of the respective parties.

Resolved, That this House doth agree with the committee in the said report, and that it be an instruction to the said Committee of Elections to proceed accordingly.

The members appointed were Messrs. PARTRIDGE, FLOYD, and THATCHER.

On motion,

Ordered, That the Committee of the whole House on the state of the Union be discharged from further proceeding on the motion to them committed, for making a compensation to the President of the United States for his services; and that a committee be appointed to take into consideration the subject of compensation to be made for the services of the President, Vice President, the members of the Senate and of the House of Representatives, and to report thereupon.

The members appointed were, Messrs. BALDWIN, VINING, LIVERMORE, MADISON, BENSON, BURKE, FITZSIMONS, BOUDINOT, WADSWORTH, GERRY, CADWALADER, and SMITH, of Maryland.

Mr. WADSWORTH presented, according to order, a bill imposing duties on tonnage; and the same was received, and read the first time.

A petition of the shipwrights of the city of Philadelphia, whose names are thereunto subscribed, was presented to the House and read, stating such regulations as they conceive will tend to the advancement and increase of American shipping, and praying the attention of Congress thereto.

Ordered, That the said petition do lie on the table.

TUESDAY, May 26.

A bill imposing duties on tonnage was read the second time, and ordered to be committed to a Committee of the whole House to-morrow.

Mr. SYLVESTER, from the committee appointed to confer with a committee of the Senate, to consider and report what newspapers the members of Congress shall be furnished with at the public expense, and to receive proposals from the printers for printing the acts and other proceedings of Congress, made a further report, which was read and ordered to lie on the table.

WEDNESDAY, May 27.

A message from the Senate informed the House that they had appointed a committee to confer with the committee appointed by this House, on the proper method of receiving into either House bills or messages from the President of the United States.

DUTIES ON TONNAGE.

The House resolved itself into a Committee of the whole, Mr. TRUMBULL in the Chair, on the bill imposing duties on tonnage; and, after making several amendments thereto, directed their Chairman to report when the House should think proper to receive the same.

Mr. FITZSIMONS, from the committee appointed, presented, according to order, a bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States; and the same was received and read the first time.

THURSDAY, May 28.

DUTIES ON TONNAGE.

The House proceeded to consider the amendments made yesterday in Committee of the whole, to the bill imposing duties on tonnage, which were agreed to; and the bill, as amended, was ordered to be engrossed and read the third time to-morrow.

On motion,

Resolved, That every such member of the present Congress, as is not yet furnished with a set of the journals of the late Congress, shall, on application to the keeper of the records and papers of the said late Congress, be entitled to receive a complete set of such journals.

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

The House proceeded to consider the two reports, the one made on the 19th instant, the

MAY 28, 1789.]

Western Lands.

[H. OF R.]

other on the 26th instant, by the committee appointed to confer with a committee of the Senate, to consider and report what newspapers the members of Congress shall be furnished with at the public expense, and to receive proposals for printing the acts, and other proceedings of Congress; and the first report, in the words following, viz.

"That, in their opinion, public economy requires that the expense heretofore incurred by the public, of supplying every member of Congress with all the newspapers printed at the seat of Congress, should be retrenched in future; but as your committee consider the publication of newspapers to be highly beneficial in disseminating useful knowledge throughout the United States, and deserving of public encouragement, they recommend that each member of Congress be supplied, at the public expense, with one paper, leaving the choice of the same to each member; and that it be the duty of the Secretary of the Senate, and Clerk of the House of Representatives, to give the necessary directions to the different printers, to furnish each member with such paper as he shall choose."

Which being read and debated,

Resolved, That this House doth disagree to the said report.

The other report being again read, and amended to read as followeth:

"That it would be proper that it should be left to the Secretary of the Senate, and Clerk of the House of Representatives, to contract with such persons as shall engage to execute the printing and binding business on the most reasonable terms, the paper being furnished by the said Secretary and Clerk to such person at the public expense. That such persons as they shall contract with, shall be obliged to render a state of their accounts quarterly, and that six hundred copies of the acts of Congress, and seven hundred copies of the journals, be printed and distributed to the executive and judiciary, and heads of departments of the Government of the United States, and the executive, legislative, and judiciary of the several States."

Resolved, That this House doth agree to the said report.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

WESTERN LANDS.

The House, on motion of Mr. SCOTT, went into a Committee of the whole on the state of the Union, for the purpose of considering certain resolutions he had prepared respecting the disposal of the land in the Western Territory, Mr. TRUMBULL in the chair.

Mr. SCOTT presumed there was little need of argument to prove to the committee the necessity of taking speedy measures with respect to the unsettled lands in the Western Territory. The dissolution of the Board of Treasury, and the death of the late Geographer of the United States, are adventitious circumstances, which tend to increase the necessity. Gentlemen are acquainted with the number of sales which have been made to some of the citizens of the United States; they consequently know that the United

States are under an obligation to complete the surveys of those lands which they have made sale of. They know, also, that until this is done, they cannot receive a farthing of the millions of dollars due on those contracts; they will not only be unable to receive the principal, but will be paying interest for the same. Besides this, there are other considerations for putting the business on a new footing. The mode hitherto pursued of selling lands has been very expensive to the United States. Perhaps, on inquiry, we shall find, that the specie it has cost us in getting the land surveyed, and sales completed, would have purchased as many certificates as we get for the sale of the land. The lands are also proposed to be sold in too great quantities. It is very difficult to form a company for the purchase of a million acres. It ought to be sold in small quantities, to make the sales more certain and numerous; and, consequently, increase the public income. On this principle, it will be well to open a land office, and grant the soil in such quantities as may suit the applications. By this means more may be expected for the purchase, than when it is struck off, at a wholesale price, by the million acres; and in this way the land office will be conducted without expense, which will be fixed on the purchaser, so that the whole money the lands may bring will come into the treasury without deduction.

There are other considerations why a land office should be opened for the sale of that territory in the way just mentioned. There are, at this moment, a great number of people on the ground, who are willing to acquire by purchase a right to the soil they are seated upon. Allured by its fertility, the agreeableness of the climate, and the prospect of future ease to themselves and families, they would not seek a change. Kentucky, already full, at least there are no more valuable lands to be got there with a clear title, can receive no more emigrants: they therefore turn their wishful eyes upon the lands of the Union. They hope to get them of Congress upon as good terms as they can procure them of the speculators. What will these men think, who have placed themselves on a vacant spot, anxiously waiting its disposition by the Government, to find their pre-emption right engrossed by the purchaser of a million of acres? Will they expose themselves to be preyed upon by these men? They might submit to this, but they have other offers.

There are seven thousand souls waiting for lands; they will have them here or elsewhere; but there is some danger, if they cannot be accommodated within the boundaries of the United States, they will do one of two things: either move into the Spanish territory, where they are not altogether uninvited, and become an accession of power to a foreign nation forming to us a dangerous frontier; or they will take this course, move on the United States' territory, and take possession without your leave. What then will be the case? They will not pay

H. OF R.]

Western Lands.

[MAY 28, 1789]

you money. Will you then raise a force to drive them off? That has been tried: troops were raised, and sent under General Harmer, to effect that purpose. They burnt the cabins, broke down the fences, and tore up the potato patches; but three hours after the troops were gone, these people returned again, repaired the damage, and are now settled upon the lands in open defiance of the authority of the Union. But nevertheless they are willing to pay an equitable price for those lands; and, if they may be indulged with a pre-emption to the purchase, no men will be better friends to the Government. They went on the ground with an intention of purchasing, and are kept there by a hope that the Government will see their interest, and dispose of the land upon reasonable terms. But if you do not listen to their request, if you neglect or despise their offers, and they prove too weak to resist the omnipotent arm of Government, they will have recourse to a neighboring Power for protection. Hopes of that protection are now held out to them; it is my duty to inform you of the fact. They will be led to think their interest is separate from yours on the Atlantic shores. It will take prudent management to prevent the fatal effects of a commotion in that country. One of the most unhappy things we could do, would be to refuse selling those lands in less quantities than by the million of acres; it would certainly be a cause of disgust, if not of separation. If the object was to prevent the settlement of the country, it would be another thing; but that cannot be accomplished, it is not in the power of any force on earth to prevent the increase of the population now begun; it is therefore much better that we should incline them to friendship, than oblige them to become our enemies. The emigrants who reach the Western country, will not stop until they find a place where they can securely seat themselves. Your lands first offer; their fertility and agreeableness will tempt them to pitch there; but, to secure them, they must have a well grounded hope that the lands they cultivate may become their own. To encourage this, you must open that territory to them, and let them have lands for pay. You must go further, you must open the land office in that country, because it will be impossible for the indigent persons to travel far for an office-right. You can then establish a Government among them, and derive advantages from them which are now totally lost. They wish for your Government and laws, and will be gratified with the indulgence; but they wish also to acquire property under them; they wish for your lands, and what good reason can be offered to warrant a denial? If they cannot get your land, they must go further, and obtain it of foreigners, who are desirous of having them at any rate, who will give them lands without pay.

These observations are sufficient, no doubt, to evince the necessity of doing something with respect to the Western territory, and something different from what has hitherto been

done. In order that the committee may have a full view of my ideas, I will read the plan I have in my hand upon which a law may be founded.

He here read a previous resolution, to be followed by the plan, which was to this effect:

Resolved, That it is the opinion of this committee, that an act of Congress ought to pass for establishing and regulating a land-office, for the sale of the vacant and unappropriated land in the Western territory.

[Here, by way of separate resolutions, followed in detail the constituent parts of this office, and the routine in which the business should be conducted, directing the expense of the office to be supported by the fees payable before the warrants and patents were delivered.]

Mr. BOUDINOT was well convinced of the importance of the subject; but did not think the committee ripe for a decision. The other departments were not established, therefore it was best to leave the resolutions on this subject as much at large as possible. He had no objection to an adoption of a general resolution, and the appointment of a sub-committee, to consider of and arrange the business; but he could not consent to limit it in the manner the gentleman proposed. Perhaps the measure might interfere with the former arrangements, and it would be difficult if not unjust to alter them. Besides, the plan of the business was mere matter of experiment. Moreover, the necessity of such an establishment may be superseded by throwing the business into the hands of one of the three great departments, which the House had agreed to organize. For these reasons, he moved to amend the resolution by striking out the words "a land office," which would leave the subject at large.

Mr. LEE seconded this motion.

Mr. VINING took it, that the committee ought to carry this measure into effect as speedily as it was possible. He was convinced, from what the gentleman near him (Mr. SCOTT) had said, that it was indisputably necessary that a land office should be established. He did not conceive this business could be engrafted upon either of the three grand departments; there must be an independent, unconnected office, established in the Western country, where the necessary communications may be made, and the money can be secured to the officer of the treasury. Why then should gentlemen combine objects which are distinct in their nature, and throw the whole weight of this branch of the Government upon another already well burthened with business?

Mr. SCOTT admitted his measure to be mere matter of experiment, but gentlemen ought not to object to it on that account, because it was an experiment that would cost nothing; the officers were to have nothing but fees for their services.

Mr. CLYMER did not believe the committee were prepared for a decision at this time. He considered the subject to be as intricate and difficult as it was interesting; and therefore hoped full time would be given for investigation.

MAY 29, 1789.]

Western Lands.

[H. OF R

Many persons had purchased large quantities of lands of the late Congress, with a view to sell them out in small lots, to accommodate the people who are inclined to settle upon them. If Congress now open a land office for the sale of small quantities, it will no doubt overcast the prospect of advantage which induced the former, and may induce future purchasers to apply for large grants. These observations, and others which would readily occur to every gentleman, would satisfy the committee that they ought not to precipitate the business. For this reason, he moved the rising of the committee.

Mr. WHITE opposed the rising of the committee, for the reasons suggested. He was confident every member saw the propriety of doing something speedily in the business, and he hoped they would agree to the resolution, as the best mode of disposing of the land, and giving satisfaction to the people.

Mr. MADISON had no objection to the rising of the committee, as the means of obtaining information; but he thought the business deserving of the earliest attention. The clear and full manner in which the gentleman from Pennsylvania had opened the subject to the view of the committee, left no doubt on his mind of the propriety of taking some early measures to accomplish the business in the manner suggested by that gentleman. The facts and intelligence mentioned were too important to be passed lightly over; he should for the present agree to rise, but hoped the subject would be resumed in the House.

The question was taken on the first resolution moved by Mr. SCOTT, and passed in the affirmative; the others remaining on the table.

The committee then rose and reported progress.

Mr. GERRY then moved, that a committee be appointed to consider the state of the unappropriated lands in the Western territory, and to report thereupon.

Mr. VINING thought this motion contradictory to the one just adopted in committee. If time was necessary for obtaining information, it was useless to set a committee about the business, because every gentleman might have easy access to all the former Congress had done on this subject.

Mr. PAGE disliked the appointment of a subcommittee on business which was before the whole, and doubted if it was in order.

Mr. GERRY said, it was of importance that the House should be made master of this subject, and he knew no way so likely to proceed in it, as by appointing a subcommittee to consider and inquire into the state of those lands. He looked upon this proposition to be detached from what was before the Committee of the whole, yet, it was of that nature as to reflect light upon the subject. He therefore hoped his motion would be agreed to.

Mr. SCOTT did not design to hurry the House or the committee into any measures, especially

if they were of doubtful policy; from his local situation he was possessed of facts, which it was impossible for many members of that House to be acquainted with. These facts he thought led to considerations of great importance to the United States. Under these circumstances, his duty led him to communicate to the House the information he had already given. He was far from wishing that Congress should proceed in the dark in their determinations on this subject; he rather wished for every information to be brought forward which could tend to illustrate it; and for that reason had cheerfully acquiesced in the rising of the committee. As he had some doubts with respect to the propriety of this motion, he hoped it would not be precipitated; he thought it was unnecessary to appoint a committee to consider the state of the unappropriated lands in the Western territory, because their situation was such as to stare every one in the face. No gentleman in that House was ignorant of the great sum of money due to Congress, upon completing the surveys of the grants already made. He supposed, likewise, that it was not in the power of the United States to make any alterations in their contracts with the purchasers of the land; a committee would therefore be useless.

He thought it was very clear, from the facts he had stated, that there was a necessity of adopting some measures like those he had proposed. If the gentleman by his motion intended to embarrass the business, or prevent any but the million acre purchasers from acquiring lands in that country, he was certain it would do an essential injury to the interests of the United States; the people, who are now disposed to settle, would go to the Spanish or English colonies; they would form a place of refuge, for all the outcasts of the Atlantic States, who, in such case, would become very dangerous neighbors. He had done his duty by bringing the subject before the House, and had no doubt but that others would do what was right in determining upon this question.

The motion was hereupon decided in the affirmative, and a committee consisting of Messrs. SCOTT, HUNTINGTON, and SHERMAN, was appointed. Adjourned.

FRIDAY, May 29.

The engrossed bill imposing duties on tonnage was read the third time, passed, and ordered to be sent to the Senate for concurrence.

Mr. PARTRIDGE, from the committee appointed to confer with a committee of the Senate, on the proper method of receiving into either House, bills or messages from the President of the United States, made a report; and the said report being amended to read as followeth:

That until the public offices are established, and the respective officers are appointed, any returns of bills and resolutions, or other communications from the President, may be re-

H. of R.]

Collection of Revenue.

[JUNE 2, 1789.]

ceived by either House, under cover, directed to the President of the Senate, or Speaker of the House of Representatives, as the case may be, and transmitted by such person as the President may think proper.

A bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States, was read the second time, and ordered to be committed to a Committee of the whole House on Monday next.

MONDAY, June 1.

A message from the Senate stated their agreement to the report on the mode of receiving into either House bills or other communications from the President of the United States, as the same had been amended by this House.

COLLECTION OF REVENUE.

The House went into a Committee of the whole, Mr. TRUMBULL in the chair, on the bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States.

And after some time spent therein, the committee rose and reported progress, and obtained leave to sit again.

Mr. BALDWIN, from the Committee appointed to take into consideration the subject of compensations to be made for the services of the President and Vice-President, the members of the Senate, and House of Representatives, made a report, which was read and ordered to lie on the table.

On motion,

Ordered, That Mr. SMITH, (of South Carolina,) Mr. LAWRENCE, and Mr. AMES, be a committee to prepare and report a bill or bills to establish a uniform system on the subject of bankruptcies throughout the United States.

TUESDAY, June 2.

The Speaker, pursuant to the directions of the act, entitled "An act to regulate the time and manner of administering certain oaths," proceeded to administer the oath to support the constitution of the United States, in the form prescribed by the said act, to the following members of this House, who had not before taken a similar oath, viz: ABRAHAM BALDWIN, EGBERT BENSON, ADAMUS BURKE, ISAAC COLES, BENJAMIN CONEER, WILLIAM FLOYD, JONATHAN GROUT, JOHN HATHORN, JAMES JACKSON, SAMUEL LIVERMORE, JEREMIAH VAN RANSELAER, JOSHUA SENEY, THOMAS SINNICKSON, PETER SYLVESTER, THOMAS SUMTER, JONATHAN TRUMBULL, JOHN VINING, and JEREMIAH WADSWORTH.

The same oath, and moreover the oath of office, prescribed by the said act, were also administered by the Speaker to the Clerk.

Mr. HUGER and Mr. SMITH, (of South Carolina,) produced certificates under the hand of the Chief Justice of New York, of their having taken the oath to support the constitu-

tion of the United States, before the said Chief Justice, pursuant to a former resolution of this House.

Mr. BALDWIN, from the committee appointed, presented, according to order, a bill to establish an executive department, to be denominated the Department of War, which was received, and read the first time.

Mr. BALDWIN, from the committee appointed, presented, according to order, a bill to establish an executive department, to be denominated the Department of Foreign Affairs, which was received, and read the first time.

COLLECTION OF REVENUE.

The House then resolved itself into a Committee of the whole; and resumed the bill for the collection of the revenue.

On motion, it was voted, that the consideration of the two *first articles* should be postponed: the *third article*, which is in these words, viz:

"That there shall also be constituted the following ports, which shall be ports both of entry and delivery, to wit:" was taken up—when Mr. LIVERMORE proposed that

Portsmouth, in New Hampshire, should be one of the ports of entry and delivery, to fill up the blank.

Machias and *Portland* were next mentioned; upon which many observations were made by different members—chiefly with respect to the number of ports for *entry and delivery*, which it might be necessary to constitute. The committee appeared to be divided in sentiment; and some gentlemen having observed, that they were not sufficiently prepared to decide what ports would be most suitable in the several States, it was moved, that the committee should rise, and make the further consideration of the bill the order of the day for to-morrow.

The vote on this motion being taken, it passed in the negative.

The Committee then proceeded in filling up the blank, when the following ports were agreed upon, viz:

Portsmouth, in *New Hampshire*.

Massachusetts.—*Portland*, *Newburyport*, *Gloucester*, *Salem*, *Marblehead*, *Boston*, *Plymouth*, *Dighton*, *New Bedford*, *Sherburne*, *Nantucket*.

Connecticut.—*New London*, *New Haven*, *Norwalk*.

State of New York.—*City of New York*, *Sag Harbor*.

New Jersey.—*Perth Amboy*, *Egg Harbor*, *Salmon*.

Pennsylvania.—*Philadelphia*.

Delaware.—*Wilmington*.

The committee then rose, and the Chairman reported progress.

On motion,

Ordered, That it be an instruction to the committee appointed the 11th of April, to prepare and bring in a bill or bills for regulating the collection of imposts and tonnage in the

JUNE 5, 1789.]

Collection of Revenue.

[H. OF R.]

United States, that they do prepare and bring in a bill, directing the mode of registering and clearing vessels, ascertaining their tonnage, and regulating the coasting trade, pilots, and light-houses.—Adjourned.

WEDNESDAY, June 3.

A message from the Senate informed the House that they had agreed to the amended report for the publication of the acts of Congress, with an amendment, to which they desired the concurrence of this House.

The House proceeded to consider the proposed amendment and agreed to it; of which the Clerk was directed to inform the Senate.

The two bills to establish the Department of War and the Department of Foreign Affairs, were read a second time, and ordered to be committed to a Committee of the whole.

A message from the Senate informed the House, that they were about to proceed to take the oath to support the constitution of the United States, pursuant to the "act to regulate the time and manner of administering certain oaths," and request that the act may be sent to them for that purpose.

COLLECTION OF REVENUE.

The House then again resolved itself into a committee, Mr. TRUMBULL in the chair.

The bill to regulate the collection of the revenue came again under consideration—when further progress was made in filling up the blank, by agreeing to the following, as ports of entry and delivery, viz:

Maryland.—Chestertown, Oxford, Vienna, Baltimore, Snow Hill, Georgetown, Annapolis, St. Mary's Patuxent,

Virginia.—Norfolk and Portsmouth, Hampton, Yorktown, Urbanna, Alexandria, Kiusale, Foley's Landing, Cherrystone, South Quay.

South Carolina.—Charleston, Georgetown, Beaufort.

Georgia.—Savannah, Sunbury, Brunswick, St. Patrick's on St. Mary's river.

Province of Maine in Massachusetts.—Pepperelborough, Bath, on Kennebeck river, Wiscasset, on Sheepscut river, Penobscot, Machias, Passamaquoddy, York, Barnstable, in the county of Barnstable.

The Speaker resumed the chair, and the Chairman reported, that the committee had, according to order, had the said bill under consideration, and made further progress therein.

Resolved, That this House will, to-morrow, again resolve itself into a Committee of the whole House on the said bill.

THURSDAY, June 4.

A message from the Senate informed the House that they had passed the following resolution, to which they request the concurrence of the House, to wit:

Resolved, That, in ten days after the passing of

every act of Congress, during the present session, or until some other regulation shall be adopted, twenty-two printed copies thereof, signed by the Secretary of the Senate, and Clerk of the House of Representatives, and certified by them to be true copies of the original acts, be lodged with the President of the United States; and that he be requested to cause to be transmitted two of the said copies, so attested as aforesaid, to each of the Supreme Executives in the several States. To which resolution they desire the concurrence of this House.

COLLECTION OF REVENUE.

The House again resolved itself into a Committee of the whole on the bill to regulate the collection of revenue, Mr. TRUMBULL in the chair; when the following ports of entry and delivery were added to the bill, viz:

Massachusetts.—Kennebunk.

Virginia.—West Point, Newport, Tappahannoc, Fredericksburg, Suffolk, Bermuda Hundred, City Point, Rocket's Landing.

New Jersey.—Burlington, Newark, New Brunswick.

The Committee then rose, reported progress, and obtained leave to sit again.

Mr. LAWRENCE proposed to insert a clause to this effect: that all ships or vessels arriving at New York from any foreign port, and destined to the city of Hudson, Albany, Esopus Creek, Poughkeepsie, or Newburgh, on Hudson River, shall enter at the port of New York; and having there paid the duties, or secured them to be paid, they may then proceed to either of said ports to deliver their cargoes; the collector at New York putting on board a land or tide waiter, and taking effectual means to prevent frauds. This clause was adopted.

Mr. JACKSON introduced another clause, providing for the forming of the sea-coast of the State of Georgia into four districts, to include ports of entry and delivery. This division was agreeable to the laws of that State. This was adopted, as was also a clause, introduced by Mr. GOODHUE, similar to that of Mr. LAWRENCE, which provided that vessels bound up Merrimack river should enter and pay, or secure the duties at Newburyport.

The committee then rose.

Mr. BALDWIN, from the committee appointed to bring in a bill or bills for the arrangement of the three executive departments, reported a bill for the Treasury Department; which was read, and laid on the table.

Mr. BENSON gave notice that to-morrow he should move for a Committee of the whole on the state of the Union, to take up the proposition respecting Rhode Island.

FRIDAY, June 5.

The House took into consideration the resolution yesterday received from the Senate, providing for the transmission of copies of the acts of Congress to the several Executives of the States, and concurred therewith.

The bill for establishing the Treasury Department was read a second time, and committed to a Committee of the whole.

Mr. AMES presented a petition from the tradesmen and manufacturers of Boston, praying the attention of Congress to the encouragement of manufactures and to the increase of American shipping, by such regulations as the wisdom of the National Legislature shall judge most consistent with the interest, prosperity, and happiness of this extensive empire. Ordered to lie on the table.

COLLECTION OF REVENUE.

The House again went into a Committee of the whole on the bill to regulate the collection of the revenue, Mr. THUMBULL in the chair; when the following additions were made to the ports of entry and delivery:

Massachusetts.—Ipswich, Manchester, Beverly, Danvers, Lynn, Charlestown, Medford, Swanzey or Freetown, Westport, Duxbury.

Virginia.—Petersburg, Cumberland, Smithfield.

Mr. VINING gave notice, that on Wednesday next he should submit to the House a resolve, providing for the establishment of a fourth subordinate executive department to be denominated the Department of the Secretary of the United States for Domestic Affairs.

Mr. BENSON presented for consideration, the resolution which he yesterday gave notice of his intention of introducing in relation to the admission of Rhode Island into the Union, and moved that the House immediately go into a Committee of the whole on the state of the Union, for the purpose of discussing his proposition.

The resolution is in the following words:

The Congress of the United States do resolve and declare it to be their most earnest desire, that the Legislature of the State of Rhode Island and Providence Plantations, do recommend to the people of that State to choose delegates to meet in convention, and to whom the constitution of the United States is to be submitted, conformably to the unanimous resolution of the United States in Congress assembled, of the 28th of September, 1787.

Mr. PAGE.—I think of Rhode Island as the worthy gentleman from New York does; but, as a member of Congress, I doubt the propriety of this body interfering in the business. If I put myself, for a moment, into the situation of a citizen of a State that has refused to accede to the constitution of the United States, I must admit that I should watch your actions with a jealous eye; I should be apprehensive of undue influence, if I were to see you throw your weight into the scale. But what occasion is there for adopting such a resolution? Are gentlemen afraid to leave them to their own unbiassed judgment? For my part I am not: it will demonstrate the goodness of the constitution, if it be adopted upon mature consideration, without any aid but its own intrinsic value. As to amendments, when we come to

consider of them, I dare say they will be such as to make the constitution more agreeable; but, for the present, I think it improper to have any thing to do with the gentleman's motion; I hope he may be prevailed upon to withdraw it; he has done his duty by bringing it forward; but if it does not meet the approbation of the House, it will be a useless waste of time to give it any further discussion. The gentleman has shown sufficiently his attachment to the Federal Government, by the earnestness he shows to have it adopted throughout the United States. But, in addition to this, let him consider where such measures may lead us. Because the Legislature of Rhode Island have neglected or refused to submit the consideration of the constitution to a convention, we are to recommend it, and express a most earnest desire that they will comply. But suppose they decline doing what you require, what is next to be done? I hope gentlemen will hesitate before they go any further. I think we should be employed more in the line of our duty, by attending to the interests of our constituents, and completing the organization of a Government they ordered, than to spend our time about business which is not within our powers. Why should we interfere with the concerns of our sister States, who have not yet joined the new Government? I trust the gentleman will see the impropriety of his motion, and agree to withdraw it.

Mr. BENSON.—I hope we shall not go into an examination of the resolution at this stage of the business; my motion goes no further than that the House should resolve itself into a Committee of the whole, for the purpose of considering the resolution; therefore, when the House is in committee, it will be time enough to enter into the merits of the question. I admit, that it is not impossible but we may find, when we are in committee, that we cannot do any thing in the business; yet I think it proper to let that question rest until we go there. But, as the subject is of great importance, I have no doubt but the House will agree to my motion.

Mr. SMITH (of South Carolina).—I think we ought to go into committee, and hear what the gentleman has to say on the subject. Though I must acknowledge I am at present against the adoption of the resolution he has proposed; yet it is possible, when he has stated his reasons, and pointed out the necessity of it, that I may alter my opinion; but I wonder why the gentleman has omitted North Carolina.

Mr. SHERMAN.—I think Rhode Island stands in a different situation from North Carolina. When this constitution was formed in the convention, North Carolina was represented there; she, as well as the adopting States, submitted that instrument to a convention of the people; but not having adopted it, she has again called a convention, and is proceeding to reconsider it as fast as convenient; so that such a request as is now proposed would be unnecessary with

JUNE 8, 1789.]

Collection of Revenue.

[H. OF R.]

respect to them. As Rhode Island did not send members to the first convention, there was a delicacy in transmitting the proceedings to them, and Congress could not, perhaps, apply to them with the same propriety as to another. But all we are now to consider, I believe, is, that we invite the State of Rhode Island to join our confederacy; what will be the effect of such a measure we cannot tell till we try it.

Mr. PAGE said, though he had a great deference for the mover, yet he conceived the motion ought not to come before Congress. He feared they would make themselves a party in the business, if they interfered; and he wished to avoid having any thing to do with their bickerings and disputes; it was enough for us to do the business we were sent upon, and not to attempt works of supererogation. From the respect he had for the gentleman, and from the delicate situation in which the House was involved, he hoped that the motion would be withdrawn.

Mr. AMES.—If the situation of the House is delicate, it is also dangerous in some degree; but he did not think it would relieve them by withdrawing the motion. If the gentleman felt serious on the subject, if there were danger in the measure, it ought to be well examined. But this was an argument for going into a Committee of the whole. Surely gentlemen are not afraid of knowing our situation. Then why oppose the means of coming at that knowledge? It is not possible to conceive that this question can be long evaded. Then what advantage is proposed from procrastination? For his part, he could discover none; and, therefore, was in favor of resolving into a Committee of the whole.

Mr. PAGE had heard the word danger, but did not hear distinctly the gentleman's arguments. He thought the House run the risk of involving themselves as parties, and of incurring all the dangers to which such a situation would expose them. He thought the best way to avoid the danger was to stay where we are.

Mr. MADISON.—I believe, Mr. Speaker, there are cases in which it is prudent to avoid coming to a decision at all, and cases where it is desirable to evade debate; if there were not cases of this kind, it would be unnecessary to guard our discussions with the previous question. My idea on the subject now before the House is, that it would be improper in this body to expose themselves to have such a proposition rejected by the Legislature of the State of Rhode Island. It would likewise be improper to express a desire on an occasion where a free agency ought to be employed, which would carry with it all the force of a command. How far this is contemplated on the present occasion, I cannot tell; but I heartily wish that as little may be said about it as possible. I conceive this to be one of the cases to which the previous question is applicable; and, if the gentleman means to call the House to a direct decision on this motion, I shall step between, and interpose the previous question.

Mr. AMES.—I am against the previous question being taken, because I wish the House to consider the motion made by the gentleman from New York; it is admitted to be a question of considerable importance; if it is, it ought to be considered; otherwise, we are shutting the door on information, and putting it out of our power to ascertain the propriety or impropriety of the motion.

I should be glad to know if any gentleman contemplates the State of Rhode Island dissevered from the Union; a maritime State, situated in the most convenient manner for the purpose of smuggling, and defrauding our revenue. Surely, a moment's reflection will induce the House to take measures to secure this object. Do gentlemen imagine that State will join the Union? If they do, what is the injury arising from the adoption of the resolution intended to be submitted to the committee? Is there any impropriety in desiring them to consider a question which they have not yet decided? It has been suggested, by an honorable gentleman, that this desire will operate as a demand. If a wish of Congress can bring them into the Union, why should we decline to express such a wish?

It has been said, that Rhode Island has never called a convention; the other States have. Then why should we decline to request them to do what every other State has been called upon to perform? The gentleman from Virginia seems afraid we should sacrifice our dignity by making this request. Let it be remembered, Great Britain lost her colonies by sacrificing her interest to her dignity. We ought, therefore, to be careful how we act upon ideas of this kind. There seems some disposition in that State to join her sister States in adopting the constitution. Then, why shall we decline encouraging that good spirit by approving the measure?

Mr. WHITE thought it best to put the previous question, because it was improper for this Legislature to interfere in their deliberation. If they were disposed to adopt the constitution, it would be best to let them exercise their judgment, independent of any influence which a recommendation from Congress might have.

The previous question being insisted upon, was put—"Shall the main question be now put?" and it was determined in the negative. Adjourned.

MONDAY, JUNE 8.

MICHAEL JENIFER STONE, from Maryland, appeared, and took his seat.

Mr. GOODHUE presented a petition from Nicholas Pike, of Newburyport, praying an exclusive interest, for a limited time, in the publication of his System of Arithmetic.—Referred to a select committee.

AMENDMENTS TO THE CONSTITUTION.

Mr. MADISON rose, and reminded the House

H. of R.]

Amendments to the Constitution.

[JUNE 8, 1789.]

that this was the day that he had heretofore named for bringing forward amendments to the constitution, as contemplated in the fifth article of the constitution, addressing the Speaker as follows: This day, Mr. Speaker, is the day assigned for taking into consideration the subject of amendments to the constitution. As I considered myself bound in honor and in duty to do what I have done on this subject, I shall proceed to bring the amendments before you as soon as possible, and advocate them until they shall be finally adopted or rejected by a constitutional majority of this House. With a view of drawing your attention to this important object, I shall move that this House do now resolve itself into a Committee of the whole on the state of the Union; by which an opportunity will be given, to bring forward some propositions, which I have strong hopes will meet with the unanimous approbation of this House, after the fullest discussion and most serious regard. I therefore move you, that the House now go into a committee on this business.

Mr. SMITH was not inclined to interrupt the measures which the public were so anxiously expecting, by going into a Committee of the whole at this time. He observed there were two modes of introducing this business to the House. One by appointing a select committee to take into consideration the several amendments proposed by the State conventions; this he thought the most likely way to shorten the business. The other was, that the gentleman should lay his propositions on the table, for the consideration of the members; that they should be printed, and taken up for discussion at a future day. Either of these modes would enable the House to enter upon business better prepared than could be the case by a sudden transition from other important concerns to which their minds were strongly bent. He therefore hoped that the honorable gentleman would consent to bring the subject forward in one of those ways, in preference to going into a Committee of the whole. For, said he, it must appear extremely impolitic to go into the consideration of amending the Government, before it is organized, before it has begun to operate. Certainly, upon reflection, it must appear to be premature. I wish, therefore, gentlemen would consent to the delay: for the business which lies in an unfinished state—I mean particularly the collection bill—is necessary to be passed; else all we have hitherto done is of no effect. If we go into the discussion of this subject, it will take us three weeks or a month; and during all this time, every other business must be suspended, because we cannot proceed with either accuracy or despatch when the mind is perpetually shifted from one subject to another.

Mr. JACKSON.—I am of opinion we ought not to be in a hurry with respect to altering the constitution. For my part, I have no idea of speculating in this serious manner on theory. If I agree to alterations in the mode of administer-

ing this Government, I shall like to stand on the sure ground of experience, and not be treading air. What experience have we had of the good or bad qualities of this constitution? Can any gentleman affirm to me one proposition that is a certain and absolute amendment? I deny that he can. Our constitution, sir, is like a vessel just launched, and lying at the wharf; she is untried, you can hardly discover any one of her properties. It is not known how she will answer her helm, or lay her course; whether she will bear with safety the precious freight to be deposited in her hold. But, in this state, will the prudent merchant attempt alterations? Will he employ workmen to tear off the planking and take asunder the frame? He certainly will not. Let us, gentlemen, fit out our vessel, set up her masts, and expand her sails, and be guided by the experiment in our alterations. If she sails upon an uneven keel, let us right her by adding weight where it is wanting. In this way, we may remedy her defects to the satisfaction of all concerned; but if we proceed now to make alterations, we may deface a beauty, or deform a well proportioned piece of workmanship. In short, Mr. Speaker, I am not for amendments at this time; but if gentlemen should think it a subject deserving of attention, they will surely not neglect the more important business which is now unfinished before them. Without we pass the collection bill we can get no revenue, and without revenue the wheels of Government cannot move. I am against taking up the subject at present, and shall therefore be totally against the amendments, if the Government is not organized, that I may see whether it is grievous or not.

When the propriety of making amendments shall be obvious from experience, I trust there will be virtue enough in my country to make them. Much has been said by the opponents to this constitution, respecting the insecurity of jury trials, that great bulwark of personal safety. All their objections may be done away, by proper regulations on this point, and I do not fear but such regulations will take place. The bill is now before the Senate, and a proper attention is shown to this business. Indeed, I cannot conceive how it could be opposed; I think an almost omnipotent Emperor would not be hardy enough to set himself against it. Then why should we fear a power which cannot be improperly exercised?

We have proceeded to make some regulations under the constitution; but have met with no inaccuracy, unless it may be said that the clause respecting vessels bound to or from one State be obliged to enter, clear, or pay duties in another, is somewhat obscure; yet that is not sufficient, I trust, in any gentleman's opinion to induce an amendment. But let me ask what will be the consequence of taking up this subject? Are we going to finish it in an hour? I believe not; it will take us more than a day, a week, a month—it will take a year to complete it! And will it be doing our duty to our coun-

JUNE 8, 1789.]

Amendments to the Constitution.

[H. OF R.]

try, to neglect or delay putting the Government in motion, when every thing depends upon its being speedily done?

Let the constitution have a fair trial; let it be examined by experience, discover by that test what its errors are, and then talk of amending; but to attempt it now is doing it at a risk, which is certainly imprudent. I have the honor of coming from a State that ratified the constitution by the unanimous vote of a numerous convention: the people of Georgia have manifested their attachment to it, by adopting a State constitution framed upon the same plan as this. But although they are thus satisfied, I shall not be against such amendments as will gratify the inhabitants of other States, provided they are judged of by experience and not merely on theory. For this reason, I wish the consideration of the subject postponed until the 1st of March, 1790.

Mr. GOODHUE.—I believe it would be perfectly right in the gentleman who spoke last, to move a postponement to the time he has mentioned; because he is opposed to the consideration of amendments altogether. But I believe it will be proper to attend to the subject earlier; because it is the wish of many of our constituents, that something should be added to the constitution, to secure in a stronger manner their liberties from the inroads of power. Yet I think the present time premature; inasmuch as we have other business before us, which is incomplete, but essential to the public interest. When that is finished, I shall concur in taking up the subject of amendments.

Mr. BURKE thought amendments to the constitution necessary, but this was not the proper time to bring them forward. He wished the Government completely organized before they entered upon this ground. The law for collecting the revenue is immediately necessary; the Treasury Department must be established; till this, and other important subjects are determined, he was against taking this up. He said it might interrupt the harmony of the House, which was necessary to be preserved in order to despatch the great objects of legislation. He hoped it would be postponed for the present, and pledged himself to bring it forward hereafter, if nobody else would.

Mr. MADISON.—The gentleman from Georgia (Mr. JACKSON) is certainly right in his opposition to my motion for going into a Committee of the whole, because he is unfriendly to the object I have in contemplation; but I cannot see that the gentlemen who wish for amendments to be proposed at the present session, stand on good ground when they object to the House going into committee on this business.

When I first hinted to the House my intention of calling their deliberations to this object, I mentioned the pressure of other important subjects, and submitted the propriety of postponing this till the more urgent business was despatched; but finding that business not despatched, when the order of the day for consider-

ing amendments arrived, I thought it a good reason for a farther delay; I moved the postponement accordingly. I am sorry the same reason still exists in some degree, but operates with less force, when it is considered that it is not now proposed to enter into a full and minute discussion of every part of the subject, but merely to bring it before the House, that our constituents may see we pay a proper attention to a subject they have much at heart; and if it does not give that full gratification which is to be wished, they will discover that it proceeds from the urgency of business of a very important nature. But if we continue to postpone from time to time, and refuse to let the subject come into view, it may occasion suspicions, which, though not well founded, may tend to inflame or prejudice the public mind against our decisions. They may think we are not sincere in our desire to incorporate such amendments in the constitution as will secure those rights, which they consider as not sufficiently guarded. The applications for amendments come from a very respectable number of our constituents, and it is certainly proper for Congress to consider the subject, in order to quiet that anxiety which prevails in the public mind. Indeed, I think it would have been of advantage to the Government, if it had been practicable to have made some propositions for amendments the first business we entered upon; it would have stifled the voice of complaint, and made friends of many who doubted the merits of the constitution. Our future measures would then have been more generally agreeably supported; but the justifiable anxiety to put the Government into operation prevented that; it therefore remains for us to take it up as soon as possible. I wish then to commence the consideration at the present moment; I hold it to be my duty to unfold my ideas, and explain myself to the House in some form or other without delay. I only wish to introduce the great work, and, as I said before, I do not expect it will be decided immediately; but if some step is taken in the business, it will give reason to believe that we may come to a final result. This will inspire a reasonable hope in the advocates for amendments, that full justice will be done to the important subject; and I have reason to believe their expectation will not be defeated. I hope the House will not decline my motion for going into a committee.

Mr. SHERMAN.—I am willing that this matter should be brought before the House at a proper time. I suppose a number of gentlemen think it their duty to bring it forward; so that there is no apprehension it will be passed over in silence. Other gentlemen may be disposed to let the subject rest until the more important objects of Government are attended to; and I should conclude, from the nature of the case, that the people expect the latter from us in preference to altering the constitution; because they have ratified that instrument, in order that the Government may begin to operate. If this was not their wish, they might as well

have rejected the constitution, as North Carolina has done, until the amendments took place. The State I have the honor to come from adopted this system by a very great majority, because they wished for the Government; but they desired no amendments. I suppose this was the case in other States; it will therefore be imprudent to neglect much more important concerns for this. The executive part of the Government wants organization; the business of the revenue is incomplete, to say nothing of the judiciary business. Now, will gentlemen give up these points to go into a discussion of amendments, when no advantage can arise from them? For my part, I question if any alteration which can be now proposed would be an amendment, in the true sense of the word; but nevertheless, I am willing to let the subject be introduced. If the gentleman only desires to go into committee for the purpose of receiving his propositions, I shall consent; but I have strong objections to being interrupted in completing the more important business; because I am well satisfied it will alarm the fears of twenty of our constituents where it will please one.

MR. WHITE.—I hope the House will not spend much time on this subject, till the more pressing business is despatched; but, at the same time, I hope we shall not dismiss it altogether, because I think a majority of the people who have ratified the constitution, did it under the expectation that Congress would, at some convenient time, examine its texture and point out where it was defective, in order that it might be judiciously amended. Whether, while we are without experience, amendments can be digested in such a manner as to give satisfaction to a constitutional majority of this House, I will not pretend to say; but I hope the subject may be considered with all convenient speed. I think it would tend to tranquilize the public mind; therefore, I shall vote in favor of going into a Committee of the whole, and, after receiving the subject, shall be content to refer it to a special committee to arrange and report. I fear, if we refuse to take up the subject, it will irritate many of our constituents, which I do not wish to do. If we cannot, after mature consideration, gratify their wishes, the cause of complaint will be lessened, if not removed. But a doubt on this head will not be a good reason why we should refuse to inquire. I do not say this as it affects my immediate constituents, because I believe a majority of the district which elected me do not require alterations; but I know there are people in other parts who will not be satisfied unless some amendments are proposed.

MR. SMITH, of South Carolina, thought the gentleman who brought forward the subject had done his duty: he had supported his motion with ability and candor, and if he did not succeed, he was not to blame. On considering what had been urged for going into a committee, he was induced to join the gentleman; but

it would be merely to receive his propositions, after which he would move something to this effect: That, however desirous this House may be to go into the consideration of amendments to the constitution, in order to establish the liberties of the people of America on the securest foundation, yet the important and pressing business of the Government prevents their entering upon that subject at present.

MR. PAGE.—My colleague tells you he is ready to submit to the Committee of the whole his ideas on this subject. If no objection had been made to his motion, the whole business might have been finished before this. He has done me the honor of showing me certain propositions which he has drawn up; they are very important, and I sincerely wish the House may receive them. After they are published, I think the people will wait with patience till we are at leisure to resume them. But it must be very disagreeable to them to have it postponed from time to time, in the manner it has been for six weeks past; they will be tired out by a fruitless expectation. Putting myself into the place of those who favor amendments, I should suspect Congress did not mean seriously to enter upon the subject; that it was vain to expect redress from them. I should begin to turn my attention to the alternative contained in the fifth article, and think of joining the Legislatures of those States which have applied for calling a new convention. How dangerous such an expedient would be I need not mention; but I venture to affirm, that unless you take early notice of this subject, you will not have power to deliberate. The people will clamor for a new convention; they will not trust the House any longer. Those, therefore, who dread the assembling of a convention, will do well to acquiesce in the present motion, and lay the foundation of a most important work. I do not think we need consume more than half an hour in the Committee of the whole; this is not so much time but we may conveniently spare it, considering the nature of the business. I do not wish to divert the attention of Congress from the organization of the Government, nor do I think it need be done, if we comply with the present motion.

MR. VINING.—I hope the House will not go into a Committee of the whole. It strikes me that the great amendment which the Government wants is expedition in the despatch of business. The wheels of the national machine cannot turn, until the impost and collection bill are perfected; these are the desiderata which the public mind is anxiously expecting. It is well known, that all we have hitherto done amounts to nothing, if we leave the business in its present state. True; but, say gentlemen, let us go into committee; it will take up but a short time; yet may it not take a considerable proportion of our time? May it not be procrastinated into days, weeks, nay, months? It is not the most facile subject that can come before the Legislature of the Union. Gentlemen's

JUNE 8, 1789.]

Amendments to the Constitution.

[H. OF R.]

opinions do not run in a parallel on this topic; it may take up more time to unite or concentre them than is now imagined. And what object is to be attained by going into a committee? If information is what we seek after, cannot that be obtained by the gentleman's laying his propositions on the table; they can be read, or they can be printed. But I have two other reasons for opposing this motion; the first is, the uncertainty with which we must decide on questions of amendment, founded merely on speculative theory; the second is a previous question, how far it is proper to take the subject of amendments into consideration, without the consent of two-thirds of both Houses? I will submit it to gentlemen, whether the words of the constitution, "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments," do not bear my construction, that it is as requisite for two-thirds to sanction the expediency of going into the measure at present, as it will be to determine the necessity of amending at all. I take it that the fifth article admits of this construction, and think that two-thirds of the Senate and House of Representatives must concur in the expediency, as to the time and manner of amendments, before we can proceed to the consideration of the amendments themselves. For my part, I do not see the expediency of proposing amendments. I think, sir, the most likely way to quiet the perturbation of the public mind, will be to pass salutary laws; to give permanency and stability to constitutional regulations, founded on principles of equity and adjusted by wisdom. Although hitherto we have done nothing to tranquillize that agitation which the adoption of the constitution threw some people into, yet the storm has abated and a calm succeeds. The people are not afraid of leaving the question of amendments to the discussion of their representatives; but is this the juncture for discussing it? What have Congress done towards completing the business of their appointment? They have passed a law regulating certain oaths; they have passed the impost bill; but are not vessels daily arriving, and the revenue slipping through our fingers? Is it not very strange that we neglect the completion of the revenue system? Is the system of jurisprudence unnecessary? And here let me ask gentlemen how they propose to amend that part of the constitution which embraces the judicial branch of Government, when they do not know the regulations proposed by the Senate, who are forming a bill on this subject?

If the honorable mover of the question before the House does not think he discharges his duty without bringing his propositions forward, let him take the mode I have mentioned, by which there will be little loss of time. He knows, as well as any gentleman, the importance of completing the business on your table, and that it is best to finish one subject before the introduction of another. He will not, therefore, persist in a motion which tends to

distract our minds, and incapacitates us from making a proper decision on any subject. Suppose every gentleman who desires alterations to be made in the constitution were to submit his propositions to a Committee of the whole; what would be the consequence? We should have strings of them contradictory to each other, and be necessarily engaged in a discussion that would consume too much of our precious time.

Though the State I represent had the honor of taking the lead in the adoption of this constitution, and did it by a unanimous vote; and although I have the strongest predilection for the present form of Government, yet I am open to information, and willing to be convinced of its imperfections. If this be done, I shall cheerfully assist in correcting them. But I cannot think this a proper time to enter upon the subject, because more important business is suspended; and, for want of experience, we are as likely to do injury by our prescriptions as good. I wish to see every proposition which comes from that worthy gentleman on the science of Government; but I think it can be presented better by staying where we are, than by going into committee, and therefore shall vote against his motion.

Mr. MADISON.—I am sorry to be accessory to the loss of a single moment of time by the House. If I had been indulged in my motion, and we had gone into a Committee of the whole, I think we might have rose and resumed the consideration of other business before this time; that is, so far as it depended upon what I proposed to bring forward. As that mode seems not to give satisfaction, I will withdraw the motion, and move you, sir, that a select committee be appointed to consider and report such amendments as are proper for Congress to propose to the Legislatures of the several States, conformably to the fifth article of the constitution.

I will state my reasons why I think it proper to propose amendments, and state the amendments themselves, so far as I think they ought to be proposed. If I thought I could fulfil the duty which I owe to myself and my constituents, to let the subject pass over in silence, I most certainly should not trespass upon the indulgence of this House. But I cannot do this, and am therefore compelled to beg a patient hearing to what I have to lay before you. And I do most sincerely believe, that if Congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures. It appears to me that this House is bound by every motive of prudence, not to let the first session pass over without proposing to the State Legislatures some things to be incorporated into the constitution, that will render it as acceptable to the whole people of the United States, as it has been found acceptable

H. OF R.]

Amendments to the Constitution.

[JUNE 8, 1789.]

to a majority of them. I wish, among other reasons why something should be done, that those who have been friendly to the adoption of this constitution may have the opportunity of proving to those who were opposed to it that they were as sincerely devoted to liberty and a Republican Government, as those who charged them with wishing the adoption of this constitution in order to lay the foundation of an aristocracy or despotism. It will be a desirable thing to extinguish from the bosom of every member of the community, any apprehensions that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and honorably bled. And if there are amendments desired of such a nature as will not injure the constitution, and they can be ingrafted so as to give satisfaction to the doubting part of our fellow-citizens, the friends of the Federal Government will evince that spirit of deference and concession for which they have hitherto been distinguished.

It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for the jealousy they have for their liberty, which, though mistaken in its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of Federalism, if they were satisfied on this one point. We ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution. The acquiescence which our fellow-citizens show under the Government, calls upon us for a like return of moderation. But perhaps there is a stronger motive than this for our going into a consideration of the subject. It is to provide those securities for liberty which are required by a part of the community; I allude in a particular manner to those two States that have not thought fit to throw themselves into the bosom of the Confederacy. It is a desirable thing, on our part as well as theirs, that a re-union should take place as soon as possible. I have no doubt, if we proceed to take those steps which would be prudent and requisite at this juncture, that in a short time we should see that disposition prevailing in those States which have not come in, that we have seen prevailing in those States which have embraced the constitution.

But I will candidly acknowledge, that, over and above all these considerations, I do conceive that the constitution may be amended; that is to say, if all power is subject to abuse, that then it is possible the abuse of the powers of the General Government may be guarded

against in a more secure manner than is now done, while no one advantage arising from the exercise of that power shall be damaged or endangered by it. We have in this way something to gain, and, if we proceed with caution, nothing to lose. And in this case it is necessary to proceed with caution; for while we feel all these inducements to go into a revival of the constitution, we must feel for the constitution itself, and make that revival a moderate one. I should be unwilling to see a door opened for a reconsideration of the whole structure of the Government—for a re-consideration of the principles and the substance of the powers given; because I doubt, if such a door were opened, we should be very likely to stop at that point which would be safe to the Government itself. But I do wish to see a door opened to consider, so far as to incorporate those provisions for the security of rights, against which I believe no serious objection has been made by any class of our constituents: such as would be likely to meet with the concurrence of two-thirds of both Houses, and the approbation of three-fourths of the State Legislatures. I will not propose a single alteration which I do not wish to see take place, as intrinsically proper in itself, or proper because it is wished for by a respectable number of my fellow-citizens; and therefore I shall not propose a single alteration but is likely to meet the concurrence required by the constitution. There have been objections of various kinds made against the constitution. Some were levelled against its structure because the President was without a council; because the Senate, which is a legislative body, had judicial powers in trials on impeachments; and because the powers of that body were compounded in other respects, in a manner that did not correspond with a particular theory; because it grants more power than is supposed to be necessary for every good purpose, and controls the ordinary powers of the State Governments. I know some respectable characters who opposed this Government on these grounds; but I believe that the great mass of the people who opposed it, disliked it because it did not contain effectual provisions against encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power; nor ought we to consider them safe, while a great number of our fellow-citizens think these securities necessary.

It is a fortunate thing that the objection to the Government has been made on the ground I stated; because it will be practicable, on that ground, to obviate the objection, so far as to satisfy the public mind that their liberties will be perpetual, and this without endangering any part of the constitution, which is considered as essential to the existence of the Government by those who promoted its adoption.

The amendments which have occurred to me, proper to be recommended by Congress to the State Legislatures, are these:

JUNE 8, 1789.]

Amendments to the Constitution.

II. OF R.

First, That there be prefixed to the constitution a declaration, that all power is originally vested in, and consequently derived from, the people.

That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

That the people have an indubitable, unalienable, and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution.

Secondly. That in article 1st, section 2, clause 3, these words be struck out, to wit: "The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative, and until such enumeration shall be made;" and that in place thereof be inserted these words, to wit: "After the first actual enumeration, there shall be one Representative for every thirty thousand, until the number amounts to —, after which the proportion shall be so regulated by Congress, that the number shall never be less than —, nor more than —, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto."

Thirdly. That in article 1st, section 6, clause 1, there be added to the end of the first sentence, these words, to wit: "But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives."

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

No person shall be subject, except in cases

of impeachment, to more than one punishment or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The rights of the people to be secured in their persons; their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers, and the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

The exceptions here or elsewhere in the constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit:

No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

Sixthly. That, in article 3d, section 2, be annexed to the end of clause 2d, these words, to wit:

But no appeal to such court shall be allowed where the value in controversy shall not amount to — dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

Seventhly. That in article 3d, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit:

The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law

H. OF R.]

Amendments to the Constitution.

[JUNE 8, 1789.]

be authorized in some other county of the same State, as near as may be to the seat of the offence.

In cases of crimes committed not within any county, the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.

Eighthly. That immediately after article 6th, be inserted, as article 7th, the clauses following, to wit:

The powers delegated by this constitution are appropriated to the departments to which they are respectively distributed: so that the legislative department shall never exercise the powers vested in the executive or judicial nor the executive exercise the powers vested in the legislative or judicial, nor the judicial exercise the powers vested in the legislative or executive departments.

The powers not delegated by this constitution, nor prohibited by it to the States, are reserved to the States respectively.

Ninthly. That article 7th be numbered as article 8th.

The first of these amendments relates to what may be called a bill of rights. I will own that I never considered this provision so essential to the federal constitution, as to make it improper to ratify it, until such an amendment was added; at the same time, I always conceived, that in a certain form, and to a certain extent, such a provision was neither improper nor altogether useless. I am aware, that a great number of the most respectable friends to the Government, and champions for republican liberty, have thought such a provision, not only unnecessary, but even improper; nay, I believe some have gone so far as to think it even dangerous. Some policy has been made use of, perhaps, by gentlemen on both sides of the question: I acknowledge the ingenuity of those arguments which were drawn against the constitution, by a comparison with the policy of Great Britain, in establishing a declaration of rights; but there is too great a difference in the case to warrant the comparison: therefore, the arguments drawn from that source were in a great measure inapplicable. In the declaration of rights which that country has established, the truth is, they have gone no farther than to raise a barrier against the power of the Crown; the power of the Legislature is left altogether indefinite. Although I know whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, come in question in that body, the invasion of them is resisted by able advocates, yet their Magna Charta does not contain any one provision for the security of those rights, respecting which the people of America are most alarmed. The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British constitution.

But although the case may be widely differ-

ent, and it may not be thought necessary to provide limits for the legislative power in that country, yet a different opinion prevails in the United States. The people of many States have thought it necessary to raise barriers against power in all forms and departments of Government, and I am inclined to believe, if once bills of rights are established in all the States as well as the federal constitution, we shall find that although some of them are rather unimportant, yet, upon the whole, they will have a salutary tendency.

It may be said, in some instances, they do no more than state the perfect equality of mankind. This, to be sure, is an absolute truth, yet it is not absolutely necessary to be inserted at the head of a constitution.

In some instances they assert those rights which are exercised by the people in forming and establishing a plan of Government. In other instances, they specify those rights which are retained when particular powers are given up to be exercised by the Legislature. In other instances, they specify positive rights, which may seem to result from the nature of the compact. Trial by jury cannot be considered as a natural right, but a right resulting from a social compact which regulates the action of the community, but is as essential to secure the liberty of the people as any one of the pre-existent rights of nature. In other instances, they lay down dogmatic maxims with respect to the construction of the Government; declaring that the legislative, executive, and judicial branches shall be kept separate and distinct. Perhaps the best way of securing this in practice is, to provide such checks as will prevent the encroachment of the one upon the other.

But whatever may be the form which the several States have adopted in making declarations in favor of particular rights, the great object in view is to limit and qualify the powers of Government, by excepting out of the grant of power those cases in which the Government ought not to act, or to act only in a particular mode. They point these exceptions sometimes against the abuse of the executive power, sometimes against the legislative, and, in some cases, against the community itself; or, in other words, against the majority in favor of the minority.

In our Government it is, perhaps, less necessary to guard against the abuse in the executive department than any other; because it is not the stronger branch of the system, but the weaker: It therefore must be levelled against the legislative, for it is the most powerful, and most likely to be abused, because it is under the least control. Hence, so far as a declaration of rights can tend to prevent the exercise of undue power, it cannot be doubted but such declaration is proper. But I confess that I do conceive, that in a Government modified like this of the United States, the great danger lies rather in the abuse of the community than in the legislative body. The prescriptions in favor of liberty ought to be levelled against that quarter where

JUNE 8, 1789.]

Amendments to the Constitution.

[H. OF R.]

the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the executive or legislative departments of Government, but in the body of the people, operating by the majority against the minority.

It may be thought that all paper barriers against the power of the community are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor, and rouse the attention of the whole community, it may be one means to control the majority from those acts to which they might be otherwise inclined.

It has been said, by way of objection to a bill of rights, by many respectable gentlemen out of doors, and I find opposition on the same principles likely to be made by gentlemen on this floor, that they are unnecessary articles of a Republican Government, upon the presumption that the people have those rights in their own hands, and that is the proper place for them to rest. It would be a sufficient answer to say, that this objection lies against such provisions under the State Governments, as well as under the General Government; and there are, I believe, but few gentlemen who are inclined to push their theory so far as to say that a declaration of rights in those cases is either ineffectual or improper. It has been said, that in the Federal Government they are unnecessary, because the powers are enumerated, and it follows, that all that are not granted by the constitution are retained; that the constitution is a bill of powers, the great residuum being the rights of the people; and, therefore, a bill of rights cannot be so necessary as if the residuum was thrown into the hands of the Government. I admit that these arguments are not entirely without foundation; but they are not conclusive to the extent which has been supposed. It is true, the powers of the General Government are circumscribed, they are directed to particular objects; but even if Government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent, in the same manner as the powers of the State Governments under their constitutions may to an indefinite extent; because in the constitution of the United States, there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the Government of the United States, or in any department or officer thereof; this enables them to fulfil every purpose for which the Government was established. Now, may not laws be considered necessary and proper by Congress, for it is for them to judge of the necessity and propriety to accomplish those special purposes which they may have in contemplation, which laws in them-

selves are neither necessary nor proper; as well as improper laws could be enacted by the State Legislatures, for fulfilling the more extended objects of those Governments. I will state an instance, which I think in point, and proves that this might be the case. The General Government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the Legislature: may not general warrants be considered necessary for this purpose, as well as for some purposes which it was supposed at the framing of their constitutions the State Governments had in view? If there was reason for restraining the State Governments from exercising this power, there is like reason for restraining the Federal Government.

It may be said, indeed it has been said, that a bill of rights is not necessary, because the establishment of this Government has not repealed those declarations of rights which are added to the several State constitutions; that those rights of the people, which had been established by the most solemn act, could not be annihilated by a subsequent act of that people, who meant, and declared at the head of the instrument, that they ordained and established a new system, for the express purpose of securing to themselves and posterity the liberties they had gained by an arduous conflict.

I admit the force of this observation, but I do not look upon it to be conclusive. In the first place, it is too uncertain ground to leave this provision upon, if a provision is at all necessary to secure rights so important as many of those I have mentioned are conceived to be, by the public in general, as well as those in particular who opposed the adoption of this constitution. Besides, some States have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.

It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution.

It has been said, that it is unnecessary to load the constitution with this provision, because it was not found effectual in the constitution of the particular States. It is true, there are a few particular States in which some of the

most valuable articles have not, at one time or other, been violated; but it does not follow but they may have, to a certain degree, a salutary effect against the abuse of power. If they are incorporated into the constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the constitution by the declaration of rights. Besides this security, there is a great probability that such a declaration in the federal system would be enforced; because the State Legislatures will jealously and closely watch the operations of this Government, and be able to resist with more effect every assumption of power, than any other power on earth can do; and the greatest opponents to a Federal Government admit the State Legislatures to be sure guardians of the people's liberty. I conclude, from this view of the subject, that it will be proper in itself, and highly politic, for the tranquillity of the public mind, and the stability of the Government, that we should offer something, in the form I have proposed, to be incorporated in the system of Government, as a declaration of the rights of the people.

In the next place, I wish to see that part of the constitution revised which declares that the number of Representatives shall not exceed the proportion of one for every thirty thousand persons, and allows one Representative to every State which rates below that proportion. If we attend to the discussion of this subject, which has taken place in the State conventions, and even in the opinion of the friends to the constitution, an alteration here is proper. It is the sense of the people of America, that the number of Representatives ought to be increased, but particularly that it should not be left in the discretion of the Government to diminish them, below that proportion which certainly is in the power of the Legislature as the constitution now stands; and they may, as the population of the country increases, increase the House of Representatives to a very unweildy degree. I confess I always thought this part of the constitution defective, though not dangerous; and that it ought to be particularly attended to whenever Congress should go into the consideration of amendments.

There are several minor cases enumerated in my proposition, in which I wish also to see some alteration take place. That article which leaves it in the power of the Legislature to ascertain its own emolument, is one to which I allude. I do not believe this is a power which, in the ordinary course of Government, is likely to be abused. Perhaps of all the powers granted, it is least likely to abuse; but there is a seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets; there is a seeming indecorum in such power, which

leads me to propose a change. We have a guide to this alteration in several of the amendments which the different conventions have proposed. I have gone, therefore, so far as to fix it, that no law, varying the compensation, shall operate until there is a change in the Legislature; in which case it cannot be for the particular benefit of those who are concerned in determining the value of the service.

I wish also, in revising the constitution, we may throw into that section, which interdicts the abuse of certain powers in the State Legislatures, some other provisions of equal, if not greater importance than those already made. The words, "No State shall pass any bill of attainder, *ex post facto* law," &c. were wise and proper restrictions in the constitution. I think there is more danger of those powers being abused by the State Governments than by the Government of the United States. The same may be said of other powers which they possess, if not controlled by the general principle, that laws are unconstitutional which infringe the rights of the community. I should therefore wish to extend this interdiction, and add, as I have stated in the 5th resolution, that no State shall violate the equal right of conscience, freedom of the press, or trial by jury in criminal cases; because it is proper that every Government should be disarmed of powers which trench upon those particular rights. I know, in some of the State constitutions, the power of the Government is controlled by such a declaration; but others are not. I cannot see any reason against obtaining even a double security on those points; and nothing can give a more sincere proof of the attachment of those who opposed this constitution to these great and important rights, than to see them join in obtaining the security I have now proposed; because it must be admitted, on all hands, that the State Governments are as liable to attack these invaluable privileges as the General Government is, and therefore ought to be as cautiously guarded against.

I think it will be proper, with respect to the judiciary powers, to satisfy the public mind on those points which I have mentioned. Great inconvenience has been apprehended to suitors from the distance they would be dragged to obtain justice in the Supreme Court of the United States, upon an appeal on an action for a small debt. To remedy this, declare that no appeal shall be made unless the matter in controversy amounts to a particular sum; this, with the regulations respecting jury trials in criminal cases, and suits at common law, it is to be hoped, will quiet and reconcile the minds of the people to that part of the constitution.

I find, from looking into the amendments proposed by the State conventions, that several are particularly anxious that it should be declared in the constitution, that the powers not therein delegated should be reserved to the several States. Perhaps words which may define this more precisely than the whole of the instru-

JUNE 8, 1789.]

Amendments to the Constitution.

[H. OF R.]

ament now does, may be considered as superfluous. I admit they may be deemed unnecessary; but there can be no harm in making such a declaration, if gentlemen will allow that the fact is as stated. I am sure I understand it so, and do therefore propose it.

These are the points on which I wish to see a revision of the constitution take place. How far they will accord with the sense of this body, I cannot take upon me absolutely to determine; but I believe every gentleman will readily admit that nothing is in contemplation, so far as I have mentioned, that can endanger the beauty of the Government in any one important feature, even in the eyes of its most sanguine admirers. I have proposed nothing that does not appear to me as proper in itself, or eligible as patronized by a respectable number of our fellow-citizens; and if we can make the constitution better in the opinion of those who are opposed to it, without weakening its frame, or abridging its usefulness, in the judgment of those who are attached to it, we act the part of wise and liberal men to make such alterations as shall produce that effect.

Having done what I conceived was my duty, in bringing before this House the subject of amendments, and also stated such as I wish for and approve, and offered the reasons which occurred to me in their support, I shall content myself, for the present, with moving "that a committee be appointed to consider of and report such amendments as ought to be proposed by Congress to the Legislatures of the States, to become, if ratified by three-fourths thereof, part of the constitution of the United States." By agreeing to this motion, the subject may be going on in the committee, while other important business is proceeding to a conclusion in the House. I should advocate greater despatch in the business of amendments, if I were not convinced of the absolute necessity there is of pursuing the organization of the Government; because I think we should obtain the confidence of our fellow-citizens, in proportion as we fortify the rights of the people against the encroachments of the Government.

Mr. JACKSON.—The more I consider the subject of amendments, the more I am convinced it is improper. I revere the rights of my constituents as much as any gentleman in Congress, yet I am against inserting a declaration of rights in the constitution, and that for some of the reasons referred to by the gentleman last up. If such an addition is not dangerous or improper, it is at least unnecessary: that is a sufficient reason for not entering into the subject at a time when there are urgent calls for our attention to important business. Let me ask gentlemen, what reason there is for the suspicions which are to be removed by this measure? Who are Congress, that such apprehensions should be entertained of them? Do we not belong to the mass of the people? Is there a single right that, if infringed, will not affect us and our connexions as much as any other person?

Do we not return at the expiration of two years into private life? and is not this a security against encroachments? Are we not sent here to guard those rights which might be endangered, if the Government was an aristocracy, or a despotism? View for a moment the situation of Rhode Island, and say whether the people's rights are more safe under State Legislatures than under a Government of limited powers? Their liberty is changed to licentiousness. But do gentlemen suppose bills of rights necessary to secure liberty? If they do, let them look at New York, New Jersey, Virginia, South Carolina, and Georgia. Those States have no bills of rights, and is the liberty of the citizens less safe in those States, than in the other of the United States? I believe it is not.

There is a maxim in law, and it will apply to bills of rights, that when you enumerate exceptions, the exceptions operate to the exclusion of all circumstances that are omitted; consequently, unless you except every right from the grant of power, those omitted are inferred to be resigned to the discretion of the Government.

The gentleman endeavors to secure the liberty of the press; pray how is this in danger? There is no power given to Congress to regulate this subject as they can commerce, or peace, or war. Has any transaction taken place to make us suppose such an amendment necessary? An honorable gentleman, a member of this House, has been attacked in the public newspapers on account of sentiments delivered on this floor. Have Congress taken any notice of it? Have they ordered the writer before them, even for a breach of privilege, although the constitution provides that a member shall not be questioned in any place for any speech or debate in the House? No, these things are offered to the public view, and held up to the inspection of the world. These are principles which will always prevail. I am not afraid, nor are other members I believe, our conduct should meet the severest scrutiny. Where, then, is the necessity of taking measures to secure what neither is nor can be in danger?

I hold, Mr. Speaker, that the present is not a proper time for considering of amendments. The States of Rhode Island and North Carolina are not in the Union. As to the latter, we have every presumption that she will come in. But in Rhode Island I think the anti-federal interest yet prevails. I am sorry for it, particularly on account of the firm friends of the Union, who are kept without the embrace of the confederacy by their countrymen. These persons are worthy of our patronage; and I wish they would apply to us for protection; they should have my consent to be taken into the Union upon such application. I understand there are some important mercantile and manufacturing towns in that State, who ardently wish to live under the laws of the General Government; if they were to come forward and

H. OF R.]

Amendments to the Constitution.

[JUNE 8, 1789.]

request us to take measures for this purpose, I would give my sanction to any which would be likely to bring about such an event.

But to return to my argument. It being the case that those States are not yet come into the Union, when they join us, we shall have another list of amendments to consider, and another bill of rights to frame. Now, in my judgment, it is better to make but one work of it whenever we set about the business.

But in what a situation shall we be with respect to those foreign Powers with whom we desire to be in treaty? They look upon us as a nation emerging into figure and importance. But what will be their opinion, if they see us unable to retain the national advantages we have just gained? They will smile at our infantine efforts to obtain consequence, and treat us with the contempt we have hitherto borne by reason of the imbecility of our Government. Can we expect to enter into a commercial competition with any of them, while our system is incomplete? And how long it will remain in such a situation, if we enter upon amendments, God only knows. Our instability will make us objects of scorn. We are not content with two revolutions in less than fourteen years; we must enter upon a third, without necessity or propriety. Our faith will be like the *punica fides* of Carthage; and we shall have none that will repose confidence in us. Why will gentlemen press us to propose amendments, while we are without experience? Can they assure themselves that the amendments, as they call them, will not want amendments, as soon as they are adopted? I will not tax gentlemen with a desire of amusing the people; I believe they venerate their country too much for this; but what more can amendments lead to? That part of the constitution which is proposed to be altered, may be the most valuable part of the whole; and perhaps those who now clamor for alterations may, ere long, discover that they have marred a good Government, and rendered their own liberties insecure. I again repeat it, this is not the time for bringing forward amendments; and, notwithstanding the honorable gentleman's ingenious arguments on that point, I am now more strongly persuaded it is wrong.

If we actually find the constitution bad upon experience, or the rights and privileges of the people in danger, I here pledge myself to step forward among the first friends of liberty to prevent the evil; and if nothing else will avail, I will draw my sword in the defence of freedom, and cheerfully immolate at that shrine my property and my life. But how are we now proceeding? Why, on nothing more than theoretical speculation, pursuing a mere *ignis fatuus*, which may lead us into serious embarrassments. The imperfections of the Government are now unknown; let it have a fair trial, and I will be bound they show themselves; then we can tell where to apply the remedy, so as to secure the great object we are aiming at.

There are, Mr. Speaker, a number of impor-

tant bills on the table which require despatch; but I am afraid, if we enter on this business, we shall not be able to attend to them for a long time. Look, sir, over the long list of amendments proposed by some of the adopting States, and say, when the House could get through the discussion; and I believe, sir, every one of those amendments will come before us. Gentlemen may feel themselves called by duty or inclination to oppose them. How are we then to extricate ourselves from this labyrinth of business? Certainly we shall lose much of our valuable time, without any advantage whatsoever. I hope, therefore, the gentleman will press us no further; he has done his duty, and acquitted himself of the obligation under which he lay. He may now accede to what I take to be the sense of the House, and let the business of amendments lie over until next spring; that will be soon enough to take it up to any good purpose.

MR. GERRY.—I do not rise to go into the merits or demerits of the subject of amendments; nor shall I make any other observations on the motion for going into a Committee of the whole on the state of the Union, which is now withdrawn, than merely to say, that, referring the subject to that committee, is treating it with the dignity its importance requires. But I consider it improper to take up this business, when our attention is occupied by other important objects. We should despatch the subjects now on the table, and let this lie over until a period of more leisure for discussion and attention. The gentleman from Virginia says it is necessary to go into a consideration of this subject, in order to satisfy the people. For my part, I cannot be of his opinion. The people know we are employed in the organization of the Government, and cannot expect that we should forego this business for any other. But I would not have it understood, that I am against entering upon amendments when the proper time arrives. I shall be glad to set about it as soon as possible, but I would not stay the operations of the Government on this account. I think with the gentleman from Delaware, (MR. VVINGO,) that the great wheels of the political machine should first be set in motion; and with the gentleman from Georgia, (MR. JACKSON,) that the vessel ought to be got under way, lest she lie by the wharf till she beat off her rudder, and run herself a wreck on shore.

I say I wish as early a day as possible may be assigned for taking up this business, in order to prevent the necessity which the States may think themselves under of calling a new convention. For I am not, sir, one of those blind admirers of this system, who think it all perfection; nor am I so blind as not to see its beauties. The truth is, it partakes of humanity; in it is blended virtue and vice, errors and excellence. But I think, if it is referred to a new convention, we run the risk of losing some of its best properties; this is a case I never wish to see. Whatever might have been my sentiments of

JUNE 8, 1789.]

Amendments to the Constitution.

[H. OF R.]

the ratification of the constitution without amendments, my sense now is, that the salvation of America depends upon the establishment of this Government, whether amended or not. If the constitution which is now ratified should not be supported, I despair of ever having a Government of these United States.

I wish the subject to be considered early for another reason. There are two States not in the Union; it would be a very desirable circumstance to gain them. I should therefore be in favor of such amendments as might tend to invite them and gain their confidence; good policy will dictate to us to expedite that event. Gentlemen say, that we shall not obtain the consent of two-thirds of both Houses to amendments. Are gentlemen willing then to throw Rhode Island and North Carolina into the situation of foreign nations? They have told you that they cannot accede to the Union, unless certain amendments are made to the constitution; if you deny a compliance with their request in that particular, you refuse an accommodation to bring about that desirable event, and leave them detached from the Union.

I have another reason for going early into this business. It is necessary to establish an energetic Government. My idea of such a Government is, that due deliberation be had in making laws, and efficiency in the execution. I hope, in this country, the latter may obtain without the dread of despotism. I would wish to see the execution of good laws irresistible. But from the view which we have already had of the disposition of the Government, we seem really to be afraid to administer the powers with which we are invested, lest we give offence. We appear afraid to exercise the constitutional powers of the Government, which the welfare of the State requires, lest a jealousy of our powers be the consequence. What is the reason of this timidity? Why, because we see a great body of our constituents opposed to the constitution as it now stands, who are apprehensive of the enormous powers of Government. But if this business is taken up, and it is thought proper to make amendments, it will remove this difficulty. Let us deal fairly and candidly with our constituents, and give the subject a full discussion; after that, I have no doubt but the decision will be such as, upon examination, we shall discover to be right. If it shall then appear proper and wise to reject the amendments, I dare to say the reasons for so doing will bring conviction to the people out of doors, as well as it will to the members of this House; and they will acquiesce in the decision, though they may regret the disappointment of their fondest hopes for the security of the liberties of themselves and their posterity. Thus, and thus only, the Government will have its due energy, and accomplish the end for which it was instituted.

I am against referring the subject to a select committee, because I conceive it would be disrespectful to those States which have proposed

amendments. The conventions of the States consisted of the most wise and virtuous men of the community; they have ratified this constitution, in full confidence that their objections would at least be considered; and shall we, sir, preclude them by the appointment of a special committee, to consider of a few propositions brought forward by an individual gentleman? Is it in contemplation that the committee should have the subject at large before them, or that they should report upon the particular amendments just mentioned, as they think proper? And are we to be precluded from the consideration of any other amendments but those the committee may report? A select committee must be considered improper, because it is putting their judgments against that of the conventions which have proposed amendments; but if the committee are to consider the matter at large, they will be liable to this objection, that their report will only be waste of time. For if they do not bring forward the whole of the amendments recommended, individual members will consider themselves bound to bring them forward for the decision of the House. I would therefore submit, if gentlemen are determined to proceed in the business at this time, whether it is not better that it should go, in the first instance, to a Committee of the whole, as first proposed by the gentleman from Virginia?

Some gentlemen consider it necessary to do this to satisfy our constituents. I think referring the business to a special committee will be attempting to amuse them with trifles. Our fellow-citizens are possessed of too much discernment not to be able to discover the intention of Congress by such procedure. It will be the duty of their representatives to tell them, if they were not able to discover it of themselves, they require the subject to be fairly considered; and if it be found to be improper to comply with their reasonable expectations, to tell them so. I hope there is no analogy between federal and punic faith; but unless Congress shall candidly consider the amendments which have been proposed in confidence by the State conventions, federal faith will not be considered very different from the *punica fides* of Carthage. The ratification of the constitution in several States would never have taken place, had they not been assured that the objections would have been duly attended to by Congress. And I believe many members of these conventions would never have voted for it, if they had not been persuaded that Congress would notice them with that candor and attention which their importance requires. I will say nothing respecting the amendments themselves; they ought to stand or fall on their own merits. If any of them are eligible, they will be adopted; if not, they will be rejected.

Mr. LIVERMORE was against this motion; not that he was against amendments at a proper time. It is enjoined on him to act a rational part in procuring certain amendments, and he

meant to do so; but he could not say what amendments were requisite, until the Government was organized. He supposed the judiciary law would contain certain regulations that would remove the anxiety of the people respecting such amendments as related thereto; because he thought much of the minutiae respecting suits between citizens of different States, &c. might be provided for by law. He could not agree to make jury trials necessary on every occasion; they were not practised even at this time, and there were some cases in which a cause could be better decided without a jury than with one.

In addition to the judiciary business, there is that which relates to the revenue. Gentlemen had let an opportunity go through their hands of getting a considerable supply from the import on the spring importations. He reminded them of this; and would tell them now was the time to finish that business; for if they did not sow in seed-time, they would be beggars in harvest. He was well satisfied in his own mind, that the people of America did not look for amendments at present; they never could imagine it to be the first work of Congress.

He wished the concurrence of the Senate upon entering on this business, because if they opposed the measure, all the House did would be mere waste of time; and there was some little difficulty on this point, because it required the consent of two-thirds of both Houses to agree to what was proper on this occasion. He said, moreover, it would be better to refer the subject generally, if referred to them at all, than to take up the propositions of individual members.

Mr. SHERMAN.—I do not suppose the constitution to be perfect, nor do I imagine if Congress and all the Legislatures on the continent were to revise it, that their united labors would make it perfect. I do not expect any perfection on this side the grave in the works of man; but my opinion is, that we are not at present in circumstances to make it better. It is at wonder that there has been such unanimity in adopting it, considering the ordeal it had to undergo; and the unanimity which prevailed at its formation is equally astonishing; amidst all the members from the twelve States present at the federal convention, there were only three who did not sign the instrument to attest their opinion of its goodness. Of the eleven States who have received it, the majority have ratified it without proposing a single amendment. This circumstance leads me to suppose that we shall not be able to propose any alterations that are likely to be adopted by nine States; and gentlemen know, before the alterations take effect, they must be agreed to by the Legislatures of three-fourths of the States in the Union. Those States which have not recommended alterations, will hardly adopt them, unless it is clear that they tend to make the constitution better. Now how this can be made out to their satisfaction I am yet to learn; they know of no defect from

experience. It seems to be the opinion of gentlemen generally, that this is not the time for entering upon the discussion of amendments: our only question therefore is, how to get rid of the subject. Now, for my own part, I would prefer to have it referred to a Committee of the whole, rather than a special committee, and therefore shall not agree to the motion now before the House.

Mr. GERRY moved, that the business lie over until the 1st day of July next, and that it be the order for that day.

Mr. SUMTER.—I consider the subject of amendments of such great importance to the Union, that I shall be glad to see it undertaken in any manner. I am not, Mr. Speaker, disposed to sacrifice substance to form; therefore, whether the business shall originate in a Committee of the whole, or in the House, is a matter of indifference to me, so that it be put in train. Although I am seriously inclined to give this subject a full discussion, yet I do not wish it to be fully entered into at present, but am willing it should be postponed to a future day, when we shall have more leisure. With respect to referring to a select committee, I am rather against it; because I consider it as treating the applications of the State conventions rather slightly; and I presume it is the intention of the House to take those applications into consideration as well as any other. If it is not, I think it will give fresh cause for jealousy; it will rouse the alarm which is now suspended, and the people will become clamorous for amendments. They will decline any further application to Congress, and resort to the other alternative pointed out in the constitution. I hope, therefore, this House, when they do go into the business, will receive those propositions generally. This I apprehend will tend to tranquillize the public mind, and promote that harmony which ought to be kept up between those in the exercise of the powers of Government, and those who have clothed them with the authority, or, in other words, between Congress and the people. Without a harmony and confidence subsist between them, the measures of Government will prove abortive, and we shall have still to lament that imbecility and weakness which have long marked our public councils.

Mr. VINING found himself in a delicate situation respecting the subject of amendments. He came from a small State, and therefore his sentiments would not be considered of so much weight as the sentiments of those gentlemen who spoke the sense of much larger States. Besides, his constituents had prejudged the question, by a unanimous adoption of the constitution, without suggesting any amendments thereto. His sense accorded with the declared sense of the State of Delaware, and he was doubly bound to object to amendments which were either improper or unnecessary. But he had good reasons for opposing the consideration of even proper alterations at this time. He would ask the gentleman who pressed them.

JUNE 10, 1789.]

Collection of Revenue.

[H. OF R.]

whether he would be responsible for the risk the Government would run of being injured by an *interregnum*? Proposing amendments at this time, is suspending the operations of Government, and may be productive of its ruin.

He would not follow the gentleman in his arguments, though he supposed them all answerable, because he would not take up the time of the House; he contented himself with saying, that a bill of rights was unnecessary in a Government deriving all its powers from the people; and the constitution enforced the principle in the strongest manner by the practical declaration prefixed to that instrument; he alluded to the words, "We the people do ordain and establish."

There were many things mentioned by some of the State conventions which he would never agree to, on any conditions whatever; they changed the principles of the Government, and were therefore obnoxious to its friends. The honorable gentleman from Virginia had not touched upon any of them; he was glad of it, because he could by no means bear the idea of an alteration respecting them; he referred to the mode of obtaining direct taxes, judging of elections, &c.

He found he was not speaking to the question; he would therefore return to it, and declare he was against committing the subject to a select committee; if it was to be committed at all, he preferred a Committee of the whole, but hoped the subject would be postponed.

Mr. MADISON found himself unfortunate in not satisfying gentlemen with respect to the mode of introducing the business; he thought, from the dignity and peculiarity of the subject, that it ought to be referred to a Committee of the whole. He accordingly made that motion first, but finding himself not likely to succeed in that way, he had changed his ground. Fearing again to be discomfited, he would change his mode, and move the propositions he had stated before, and the House might do what they thought proper with them. He accordingly moved the propositions by way of resolutions to be adopted by the House.

Mr. LIVERMORE objected to these propositions, because they did not take up the amendments of the several States.

Mr. PAGE was much obliged to his colleague for bringing the subject forward in the manner he had done. He conceived it to be just and fair. What was to be done when the House would not refer it to a committee of any sort, but bring the question at once before them? He hoped it would be the means of bringing about a decision.

Mr. LAWRENCE moved to refer Mr. MADISON's motion to the Committee of the whole on the state of the Union.

Mr. LEE thought it ought to be taken up in that committee; and hoped his colleague would bring the propositions before the committee, when on the state of the Union, as he had originally intended.

Mr. BOUDINOT wished the appointment of a select committee, but afterwards withdrew his motion.

At length Mr. LAWRENCE's motion was agreed to, and Mr. MADISON's propositions were ordered to be referred to a Committee of the whole. Adjourned.

TUESDAY, June 9.

On motion,

Resolved, That so much of the standing rules and orders as direct that, upon a division of the House on any question, the members who vote in the affirmative shall go to the right, and those in the negative shall go to the left of the Chair, be rescinded; and that, in future, when a division is called for, those in the affirmative of the question shall rise from their seats, and those in the negative remain sitting.

COLLECTION OF DUTIES.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill to regulate the collection of duties imposed on goods, wares, and merchandises, imported into the United States. Mr. TRUMBULL in the chair. Previous to making any further nomination of ports of entry and delivery, it was moved, that the shores, bays, rivers, creeks, and harbors, be divided into as many districts as there are ports of entry in the United States. This motion, after a discussion, was adopted.

It was moved to insert a clause, whereby masters of ships and other vessels, loaded with goods, wares, and merchandise, and bound into the United States from any foreign port, should be obliged to produce duplicate manifestoes of their respective cargoes, to any officers of the customs that may demand the same, previous to their entering the ports of destination.

This motion gave rise to a lengthy conversation, which terminated in withdrawing the motion.

It was then voted, that a collector, a naval officer, and a surveyor, should be appointed for each of the following ports, viz: Boston, New York, Philadelphia, Baltimore, Norfolk, and Portsmouth; Alexandria, Virginia; Georgetown, Maryland; Charleston, South Carolina; and Savannah. The committee then rose and reported progress, and the House adjourned.

WEDNESDAY, June 10.

COLLECTION OF REVENUE.

The House again went into a committee on the bill to regulate the collection on imported goods; Mr. TRUMBULL in the chair.

On motion of Mr. MADISON, a clause was inserted, which provides "that there shall be a surveyor at each of the ports of delivery only," excepting certain ports to be enumerated.

The motion of Mr. AMES, which was withdrawn yesterday, was again brought forward by that gentleman, and adopted as a clause, to

H. OF R.]

Collection of Revenue.

[JUNE 12, 1789.]

be inserted in the bill. It provides, That every master, or other person, having charge or command of a ship or vessel bound to any port of the United States, shall be obliged to produce, on demand, to any officer, or person authorized for the purpose, two manifests, specifying in words, the true contents of the cargo on board such ship or vessel; one of which manifests the officer is to endorse, and return to the captain, noting the time when the same was produced to him. The other he is to transmit to the naval officer of the port to which the said vessel is bound."

Several other propositions were produced, and debated, but not accepted.

The committee then rose, reported progress, and the House adjourned.

THURSDAY, June 11.

COLLECTION OF REVENUE.

The House again resolved itself into a Committee of the whole on the bill to regulate the collection of duties, Mr. TRUMBULL in the chair, when

Mr. PARKER moved to insert the following clause in the bill, viz. "Provided that no ship or vessel, not belonging wholly to a citizen or citizens of the United States, shall be permitted to enter or unlade at any other than the following ports, viz."

This clause, the gentleman observed, was necessary to hold up a preference to our own navigation, to secure to the citizens of the States exclusively the coasting trade; it would conduce more effectually to securing the revenue, and was a provision sanctioned by the practice of other commercial countries.

Several other observations were made, when Mr. FITZSIMONS proposed, that the clause should be amended by adding, "Nor shall any ship or vessel from India, China, or beyond the Cape of Good Hope, and bound to the United States, enter, or unlade, but at the following ports, viz."

This clause, with the amendment, occasioned considerable discussion. In opposition to the first, it was observed, that the restriction could not, with propriety, be confined to foreign vessels, on account of smuggling, as our own citizens, possessing superior advantages for that business, would more probably evade the laws than strangers; that it would operate altogether in favor of those States who employed no foreign shipping; and as sufficient had been done to encourage our own navigation, it was to be expected that the motion would be withdrawn. With respect to the clause restricting vessels from India, it was said, that it would tend to the creating of monopolies, to give undue advantage to particular ports, to their aggrandizement and that of individuals residing in or near such ports, while it would deprive those who resided at a distance from them, and whose capitals were limited, from adventuring in those voyages, as was now the case.

In support of the clause, it was observed, that foreigners could, with propriety, be restricted from entering those ports, which they had not been accustomed to frequent; and, for this reason, no injury would be done to the persons residing at such places; but to circumscribe our own navigation within narrower limits than it had been used to, would be productive of extensive ill consequences; it would cut off a great proportion of the trade of the United States, and, in a manner, depopulate the seacoast. That the experience of other countries was in favor of restricting foreigners to narrower limits than our own citizens; they could not be supposed to be actuated by any motives of attachment to the Government or country, to induce a compliance with the revenue laws.

With respect to the restriction on India ships, it was said, that goods from that country were more easily smuggled than any other; that this restriction was of the last importance to the revenue, as one boat-load of India goods would pay a greater impost than a whole cargo from the West Indies; that it would be impolitic to suffer this trade to be carried on from ports favorably situated for smuggling; and that it had been found necessary to restrict British India ships to the port of London, to prevent frauds upon the revenue.

Many other observations were made; when the question on the amendment proposed by Mr. FITZSIMONS being taken, it passed in the affirmative.

The vote being then taken on the whole, it passed also in the affirmative.

The ports to be established by this clause are yet to be named.

Further progress was made in the bill, and several amendments agreed to.

The committee then rose, reported progress, and the House adjourned.

FRIDAY, June 12.

A message from the Senate informed the House that the Senate had passed a bill for laying a duty on goods, wares, and merchandises imported into the United States, with several amendments, to which they requested the concurrence of this House.

On motion,

Ordered, That MESSRS. VINING, STONE, and JACKSON, be added to the committee to whom was referred the subject of reporting a bill, directing the mode of registering and clearing vessels, ascertaining their tonnage, and for regulating the coasting trade, pilots, and light-houses.

COLLECTION OF REVENUE.

The House then formed itself into a Committee of the whole on the bill to regulate the collection of impost duties; Mr. TRUMBULL in the chair. Considerable progress was made in the bill; but, after some time spent thereon, they rose, and asked and obtained leave to sit again.

JUNE 16, 1789.]

Duties on Imports.

[H. OF R.]

SATURDAY, JUNE 13.

COLLECTION OF REVENUE.

The House again resolved itself into a Committee of the whole on the bill to regulate the collection of the duties imposed on goods, wares, and merchandises imported into the United States; Mr. TRUMBULL in the chair. The bill underwent further discussion, and the general sentiment of the committee on the subject was pretty generally ascertained. Many observations were made as to the most eligible mode of realizing the duties into the public treasury. But previous to any ultimate decision, on motion of Mr. FITZSIMONS, the committee rose, for the purpose of affording an opportunity of referring the subject to another committee, in order that a new bill might be reported. A motion to this effect was carried, and Messrs. GOODHUE, FITZSIMONS, LAWRENCE, BURKE, LIVERMORE, SHERMAN, and JACKSON formed the committee.

Mr. GERRY proposed a resolution, making it a standing order of the House, that, in future, the House shall adjourn from Friday to Monday; and

Mr. LEONARD offered a resolution for prefixing the constitution to the first volume of the Laws of Congress, when printed.

Both resolutions were ordered to lie on the table.

MONDAY, JUNE 15.

JOHN BROWN, from Virginia, and THEODORE SEDGWICK, from Massachusetts, appeared and took their seats.

On motion of Mr. GOODHUE, it was

Ordered, That Mr. SMITH, of Maryland, and Mr. PARKER, from Virginia, be added to the committee appointed on Saturday last on the subject of collecting duties on imposts.

WESTERN LANDS.

Mr. SCOTT, from the committee to consider the state of the unappropriated lands in the Western territory, reported. This report contained a very particular geographical account of that country.

Ordered, That this report be referred to a Committee of the whole upon the state of the Union.

DUTIES ON IMPORTS.

The House then proceeded to the consideration of the amendments, which had been proposed by the Senate, for the bill for imposing duties on goods, wares, and merchandises imported into the United States.

The enacting clause of the bill, viz. "The Congress of the United States," was amended by the Senate, by proposing to insert "The Senate and Representatives of the United States." This amendment was not concurred in.

That clause of the bill which made a discrimination between states and kingdoms in alliance with the United States, and those which

are not, with respect to the duty on distilled spirits, the Senate proposed should be struck out. A recapitulation of arguments used in the former progress of the bill on both sides of the question, with little variation, now took place. The result was a non-concurrence with the Senate.

A general concurrence with the Senate in their amendments to the bill was urged by several gentlemen. They observed that much time had already been expended in the discussion of the subject; that further delay would be sacrificing the revenue; that there was danger of our losing the benefit of the fall importations; that the high duties which had been voted by the House were contrary to the opinion of a large minority, having been carried by a very small majority; to the minority was now added the almost unanimous voice of the Senate: therefore, to reject the amendments of the Senate, was hazarding the fate of the present bill. The sentiment in favor of low duties was sanctioned by the invariable experience of the commercial world. They were always productive of greater revenue than high duties, as the latter held out a powerful temptation to evade the laws. The public voice, it was contended, was in opposition to high duties; and accounts received from mercantile characters in various parts of the Union confirmed the truth of this observation. That, as the operation and success of the laws, in the first instance, must depend upon the general opinion of their eligibility, it was rash to risk the popularity of the Government in a case where no risk was necessary. That the duty on spirits, in particular, was beyond all precedent, and would undoubtedly be evaded, as it was a premium to smuggle.

On the other hand, it was said, that the duties were, in general, conformable to the sentiments of the people, particularly on distilled spirits; that on bulky articles high duties could be realized with some degree of certainty; that the probable amount of the proposed duties would fall short of the exigencies of the Union; the proposed deduction in some cases would curtail it fifty per cent.; that it yet remained to be ascertained whether high duties, in many cases, could not be collected with as great facility as low, the prompt collection of both being matter of speculation at present; that it was conceded, on all hands, that a revenue must be obtained, or the country be ruined. Direct taxes could not be thought of; and even the excise would be unpopular. That the opinion of respectable commercial characters was in favor of the proposed duties, particularly the duty on spirits, which, agreeably to their ideas, could be easily collected, even if it had been set at a higher rate.

TUESDAY, JUNE 16.

A motion was made by Mr. WHITE, of Virginia, and adopted, that seats be provided for such members of the Senate as please to attend the debates, within the bar of the House.

H. OF R.]

Department of Foreign Affairs.

[JUNE 16, 1789.]

The House then proceeded to consider the remainder of the amendments proposed by the Senate to the impost bill. The House did not concur in the time fixed by the Senate for this act to be in force, viz. the 1st of July next; but substituted the 1st of August; when the following being read, were acceded to, viz:

To insert playing cards at a duty of ten cents per pack.

Cotton at three cents per pound.

To allow a drawback on brandy and geneva exported from the United States.

After the words "exported out of the limits of the United States," to add the following, viz: "as settled by the late treaty of peace."

To strike out the sentence which provided for allowing a drawback of five cents per gallon on spirits distilled from molasses in the United States, and exported out of the same.

The discount of ten per cent. on goods, wares, and merchandise, imported in vessels built in the United States, and owned by a citizen or citizens thereof, was extended to goods, &c. imported in vessels not built in the United States, but which were owned by a citizen or citizens thereof, on the 16th May last, and continued so till the time of the importation of such goods.

DEPARTMENT OF FOREIGN AFFAIRS.

The House then resolved itself into a Committee of the whole on the bill for establishing an executive department, to be denominated the Department of Foreign Affairs; Mr. TRUMBULL in the chair.

The first clause, after recapitulating the title of the officer and his duties, had these words: "To be removable from office by the President of the United States."

Mr. WHITE.—The constitution gives the President the power of nominating, and, by and with the advice and consent of the Senate, appointing to office. As I conceive the power of appointing and dismissing to be united in their natures, and a principle that never was called in question in any Government, I am averse to that part of the clause which subjects the Secretary of Foreign Affairs to be removed at the will of the President. In the constitution, special provision is made for the removal of the judges; that I acknowledge to be a deviation from my principle; but as it is a constitutional provision, it is to be admitted. In all cases not otherwise provided for in the constitution, I take it, that the principle I have laid down is the governing one. Now the constitution has associated the Senate with the President, in appointing the heads of departments. The Secretary of Foreign Affairs is the head of a department; for the words of the law declare, that there shall be a department established, at the head of which shall be an officer to be so denominated. If, then, the Senate are associated with the President in the appointment, they ought also to be associated in the dismission from office. Upon the justness of this con-

struction, I take the liberty of reviving the motion made in the Committee of the whole, for striking out these words: "to be removable from office by the President of the United States."

Mr. SMITH, of South Carolina.—The gentleman has anticipated me in his motion; I am clearly in sentiment with him that the words ought to go out. It is in the recollection of the committee, that when the subject was last before us, this power was excepted to; and although the words were then allowed to stand, it was generally understood that it should be further debated. I then was opposed to giving this power to the President, and am still of opinion that we ought not to make this declaration, even if he has the power by the constitution.

I would premise that one of these two ideas are just: either that the constitution has given the President the power of removal, and therefore it is nugatory to make the declaration here; or it has not given the power to him, and therefore it is improper to make an attempt to confer it upon him. If it is not given to him by the constitution, but belongs conjointly to the President and Senate, we have no right to deprive the Senate of their constitutional prerogative; and it has been the opinion of sensible men that the power was lodged in this manner. A publication of no inconsiderable eminence in the class of political writings on the constitution, has advanced this sentiment. The author, or authors, (for I have understood it to be the production of two gentlemen of great information,) of the work published under the signature of *Publius*, has these words:

"It has been mentioned as one of the advantages to be expected from the co-operation of the Senate in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to displace as well as appoint. A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the Government, as might be expected if he were the sole disposer of offices. Where a man in any station has given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him, by the apprehension that the discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration, will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body, which, from the greater permanency of its own composition, will, in all probability, be less subject to inconstancy than any other member of the Government."

Here this author lays it down, that there can be no doubt of the power of the Senate in the business of removal. Let this be as it may, I

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

am clear that the President alone has not the power. Examine the constitution; the powers of the several branches of Government are there defined; the President has particular powers assigned him; the Judiciary have in like manner powers assigned them; but you will find no such power as removing from office given to the President. I call upon gentlemen to show me where it is said that the President shall remove from office. I know they cannot do it. Now, I infer from this, that, as the constitution has not given the President the power of removability, it meant that he should not have that power; and this inference is supported by that clause in the constitution which provides that all civil officers of the United States shall be removed from office on impeachment for, and on conviction of treason, bribery, or other high crimes and misdemeanors. Here is a particular mode prescribed for removing; and if there is no other mode directed, I contend that the constitution contemplated only this mode. But let me ask gentlemen if any other mode is necessary. For what other cause should a man be removed from office? Do gentlemen contend that sickness or ignorance would be a sufficient cause? I believe, if they will reflect, they cannot instance any person who was removed for ignorance. I venture to say there never was an instance of this nature in the United States. There have been instances where a person has been removed for offences. The same may again occur, and are therefore judiciously provided for in the constitution. But in this case, is he removed for his ignorance, or his error, which is the consequence of his ignorance? I suppose it is for his error, because the public are injured by it, and not for incapacity. The President is to nominate the officer, and the Senate to approve. Here is provision made against the appointment of ignorant officers. They cannot be removed for causes which subsisted before their coming into office. Their ignorance, therefore, must arise after they are appointed. But this is an unlikely case, and one that cannot be contemplated as probable.

I imagine, sir, we are declaring a power in the President which may hereafter be greatly abused; for we are not always to expect a Chief Magistrate in whom such entire confidence can be placed as in the present. Perhaps gentlemen are so much dazzled with the splendor of the virtues of the present President, as not to be able to see into futurity. The framers of the constitution did not confine their views to the first person who was looked up to to fill the Presidential chair. If they had, they might have omitted those checks and guards with which the powers of the Executive are surrounded. They knew, from the course of human events, that they could not expect to be so highly favored of heaven as to have the blessing of his administration more than seven or fourteen years; after which, they supposed a man might get into power, who, it was possible, might misbehave. We ought to follow their example,

and contemplate this power in the hands of an ambitious man, who might apply it to dangerous purposes. If we give this power to the President, he may, from caprice, remove the most worthy men from office. His will and pleasure will be the slight tenure by which an office is to be held, and of consequence you render the officer the mere state-dependent, the abject slave of a person who may be disposed to abuse the confidence his fellow-citizens have placed in him.

Another danger may result. If you desire an officer to be a man of capacity and integrity, you may be disappointed. A gentleman possessed of these qualities, knowing he may be removed at the pleasure of the President, will be loath to risk his reputation on such insecure ground. As the matter stands in the constitution, he knows, if he is suspected of doing any thing wrong, he shall have a fair trial, and the whole of his transactions be developed by an impartial tribunal. He will have confidence in himself when he knows he can only be removed for improper behavior. But if he is subjected to the whim of any man, it may deter him from entering into the service of his country; because, if he is not subservient to that person's pleasure, he may be turned out, and the public may be led to suppose for improper behavior. This impression cannot be removed, as a public inquiry cannot be obtained. Besides this, it ought to be considered, that the person who is appointed will probably quit some other office or business in which he is occupied. Ought he, after making this sacrifice in order to serve the public, to be turned out of place, without even a reason being assigned for such behavior? Perhaps the President does not do this with an ill intention; he may have been misinformed. For it is presumable that a President may have around him men envious of the honors or emoluments of persons in office, who will insinuate suspicions into his honest breast, that may produce a removal. Be this as it may, the event is still the same to the removed officer. The public suppose him guilty of malpractices. Hence his reputation is blasted, his property sacrificed. I say his property is sacrificed, because I consider his office as his property. He is stripped of this, and left exposed to the malevolence of the world, contrary to the principles of the constitution, and contrary to the principles of all free Governments, which are, that no man shall be despoiled of his property, but by a fair and impartial trial.

These are serious considerations, and such, I trust, as will make impressions on the minds of gentlemen anxious to promote the public welfare, and secure distributive justice to themselves and their posterity.

When this subject was laid before the committee, it was said that it appeared absurd that an inferior officer should be removed only by impeachment. There is a clause in the constitution empowering Congress to vest the appointment of inferior officers in the President

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 16, 1789]

alone, in courts of law, or heads of departments. These offices may also be established on such terms as the Legislature shall judge proper; but neither the appointment or removal of heads of departments can be otherwise performed than is directed by the constitution.

To return to my argument. I have stated that if the power is given by the constitution, the declaration in the law is nugatory; and I will add, if it is not given, it will be nugatory also to attempt to vest the power. If the Senate participate, on any principle whatever, in the removal, they will never consent to transfer their power to another branch of the Government; therefore, they will not pass a law with such a declaration in it.

Upon this consideration alone, if there was no other, the words should be struck out, and the question of right, if it is one, left to the decision of the Judiciary. It will be time enough to determine the question when the President shall remove an officer in this way. I conceive it can properly be brought before that tribunal; the officer will have a right to a mandamus to be restored to his office, and the judges would determine whether the President exercised a constitutional authority or not.

Some gentlemen think the constitution takes no notice of this officer, as the head of a department; they suppose him an inferior officer in aid of the Executive. This, I think, is going too far; because the constitution, in the words authorizing the President to call on the heads of departments for their opinions in writing, contemplates several departments. It says, "the principal officer in each of the executive departments."

I have seriously reflected on this subject, and am convinced that the President has not this power by the constitution, and that, if we had the right to invest him with it, it would be dangerous to do so.

Mr. HUNTINGTON.—I think the clause ought not to stand. It was well observed that the constitution was silent respecting the removal, otherwise than by impeachment. I would likewise add, that it mentions no other cause of removal than treason, bribery, or other high crimes and misdemeanors. It does not, I apprehend, extend to cases of infirmity or incapacity. Indeed, it appears hard to me, that after an officer has become old in an honorable service, he should be impeached for this infirmity. The constitution, I think, must be the only rule to guide us on this occasion; as it is silent with respect to the removal, Congress ought to say nothing about it, because it implies that we have a right to bestow it, and I believe this power is not to be found among the enumerated powers delegated by the constitution to Congress.

It was said, if the President had this authority, it would make him more responsible for the conduct of the officer. But if we have a vicious President, who inclines to abuse this power, which God forbid, his responsibility will

stand us in little stead. Therefore, that idea does not satisfy me that it is proper the President should have this power.

Mr. SEDGWICK.—I wish the words to be struck out, because I conceive them to be unnecessary in this place. I do conceive, Mr. Speaker, that this officer will be the mere creature of the law; and that very little need be said to prove to you that of necessity this ought to be the case. I apprehend, likewise, that it requires but a small share of abilities to point out certain causes for which a person ought to be removed from office, without being guilty of treason, bribery, or malfeasance; and the nature of things demands that it should be so. Suppose, sir, a man becomes insane by the visitation of God, and is likely to ruin our affairs, are the hands of Government to be confined from warding off the evil? Suppose a person in office, not possessing the talents he was judged to have at the time of the appointment, is the error not to be corrected? Suppose he acquires vicious habits, an incurable indolence, or total neglect of the duties of his office, which forebode mischief to the public welfare, is there no way to arrest the threatened danger? Suppose he becomes odious and unpopular by reason of the measures which he pursues, (and this he may do without committing any positive offence against the law,) must he preserve his office in despite of the public will? Suppose him grasping at his own aggrandisement, and the elevation of his connexions, by every means short of the treason defined by the constitution, hurrying your affairs to the precipice of destruction, endangering your domestic tranquillity, plundering you of the means of defence, by alienating the affections of your allies, and promoting the spirit of discord; is there no way suddenly to seize the worthless wretch, and hurl him from the pinnacle of power? Must the tardy, tedious, desultory road, by way of impeachment, be travelled to overtake the man who, barely confining himself within the letter of the law, is employed in drawing off the vital principle of the Government? Sir, the nature of things, the great objects of society, the express objects of this constitution, require that this thing should be otherwise. Well, sir, this is admitted by gentlemen; but they say the Senate is to be united with the President in the exercise of this power. I hope, sir, this is not the case; because it would involve us in the most serious difficulty. Suppose a discovery of any of those events which I have just enumerated were to take place when the Senate is not in session, how is the remedy to be applied? This is a serious consideration, and the evil could be avoided no other way than by the Senate's sitting always. Surely no gentleman of this House contemplates the necessity of incurring such an expense. I am sure it will be very objectionable to our constituents; and yet this must be done, or the public interest be endangered by keeping an unworthy officer in place until that body shall

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

be assembled from the extremes of the Union. It has been said that there is a danger of this power being abused if exercised by one man. Certainly the danger is as great with respect to the Senate, who are assembled from various parts of the continent, with different impressions and opinions. It appears to me that such a body is more likely to misuse this power than the man whom the united voice of America calls to the Presidential chair. As the nature of the Government requires the power of removal, I think it is to be exercised in this way by a hand capable of exerting itself with effect, and, the power must be conferred upon the President by the constitution, as the executive officer of the Government.

I believe some difficulty will result from determining this question by a mandamus. A mandamus is used to replace an officer who has been removed contrary to law; now, this officer being the creature of the law, we may declare that he shall be removed for incapacity, and if so declared, the removal will be according to law.

MR. MADISON.—If the construction of the constitution is to be left to its natural course with respect to the executive powers of this Government, I own that the insertion of this sentiment in law may not be of material importance, though, if it is nothing more than a mere declaration of a clear grant made by the constitution, it can do no harm; but if it relates to a doubtful part of the constitution, I suppose an exposition of the constitution may come with as much propriety from the Legislature, as any other department of the Government. If the power naturally belongs to the Government, and the constitution is undecided as to the body which is to exercise it, it is likely that it is submitted to the discretion of the Legislature, and the question will depend upon its own merits.

I am clearly of opinion with the gentleman from South Carolina, (MR. SMITH,) that we ought in this, and every other case, to adhere to the constitution, so far as it will serve as a guide to us, and that we ought not to be swayed in our decisions by the splendor of the character of the present Chief Magistrate, but to consider it with respect to the merit of men who, in the ordinary course of things, may be supposed to fill the chair. I believe the power here declared is a high one, and, in some respects, a dangerous one; but, in order to come to a right decision on this point, we must consider both sides of the question: the possible abuses which may spring from the single will of the First Magistrate, and the abuse which may spring from the combined will of the Executive and the Senatorial disqualification.

When we consider that the First Magistrate is to be appointed at present by the suffrages of three millions of people, and in all human probability in a few years' time by double that number, it is not to be presumed that a vicious or bad character will be selected. If the Government of any country on the face of the earth

was ever effectually guarded against the election of ambitious or designing characters to the first office of the State, I think it may with truth be said to be the case under the constitution of the United States. With all the infirmities incident to a popular election, corrected by the particular mode of conducting it, as directed under the present system, I think we may fairly calculate that the instances will be very rare in which an unworthy man will receive that mark of the public confidence which is required to designate the President of the United States. Where the people are disposed to give so great an elevation to one of their fellow-citizens, I own that I am not afraid to place my confidence in him, especially when I know he is impeachable for any crime or misdemeanor before the Senate, at all times; and that, at all events, he is impeachable before the community at large every four years, and liable to be displaced if his conduct shall have given umbrage during the time he has been in office. Under these circumstances, although the trust is a high one, and in some degree, perhaps, a dangerous one, I am not sure but it will be safer here than placed where some gentlemen suppose it ought to be.

It is evidently the intention of the constitution, that the first Magistrate should be responsible for the executive department; so far therefore as we do not make the officers who are to aid him in the duties of that department responsible to him, he is not responsible to his country. Again, is there no danger that an officer, when he is appointed by the concurrence of the Senate, and has friends in that body, may choose rather to risk his establishment on the favor of that branch, than rest it upon the discharge of his duties to the satisfaction of the executive branch, which is constitutionally authorized to inspect and control his conduct? And if it should happen that the officers connect themselves with the Senate, they may mutually support each other, and for want of efficacy reduce the power of the President to a mere vapor; in which case, his responsibility would be annihilated, and the expectation of it unjust. The high executive officers, joined in cabal with the Senate, would lay the foundation of discord, and end in an assumption of the executive power, only to be removed by a revolution in the Government. I believe no principle is more clearly laid down in the constitution than that of responsibility. After premising this, I will proceed to an investigation of the merits of the question upon constitutional ground.

I have, since the subject was last before the House, examined the constitution with attention, and I acknowledge that it does not perfectly correspond with the ideas I entertained of it from the first glance. I am inclined to think, that a free and systematic interpretation of the plan of Government will leave us less at liberty to abate the responsibility than gentlemen imagine. I have already acknowledged that the powers of the Government must re-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 16, 1789.]

main as apportioned by the constitution. But it may be contended, that where the constitution is silent, it becomes a subject of legislative discretion; perhaps, in the opinion of some, an argument in favor of the clause may be successfully brought forward on this ground: I, however, leave it for the present untouched.

By a strict examination of the constitution, on what appears to be its true principles, and considering the great departments of the Government in the relation they have to each other, I have my doubts whether we are not absolutely tied down to the construction declared in the bill. In the first section of the first article, it is said, that all legislative powers herein granted shall be vested in a Congress of the United States. In the second article, it is affirmed that the executive power shall be vested in a President of the United States of America. In the third article, it is declared that the judicial power of the United States shall be vested in one Supreme Court, and in such Inferior Courts as Congress may, from time to time, ordain and establish. I suppose it will be readily admitted, that so far as the constitution has separated the powers of these great departments, it would be improper to combine them together; and so far as it has left any particular department in the entire possession of the powers incident to that department, I conceive we ought not to qualify them further than they are qualified by the constitution. The legislative powers are vested in Congress, and are to be exercised by them uncontrolled by any other department, except the constitution has qualified it otherwise. The constitution has qualified the legislative power, by authorizing the President to object to any act it may pass, requiring, in this case, two-thirds of both Houses to concur in making a law; but still the absolute legislative power is vested in the Congress with this qualification alone.

The constitution affirms, that the executive power shall be vested in the President. Are there exceptions to this proposition? Yes, there are. The constitution says, that in appointing to office, the Senate shall be associated with the President, unless in the case of inferior officers, when the law shall otherwise direct. Have we a right to extend this exception? I believe not. If the constitution has invested all executive power in the President, I venture to assert that the Legislature has no right to diminish or modify his executive authority.

The question now resolves itself into this, Is the power of displacing, an executive power? I conceive that if any power whatsoever is in its nature executive, it is the power of appointing, overseeing, and controlling those who execute the laws. If the constitution had not qualified the power of the President in appointing to office, by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointments? Should we

be authorized, in defiance of that clause in the constitution,—"The executive power shall be vested in a President," to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this, I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first only is authorized by being excepted out of the general rule established by the constitution, in these words, "the executive power shall be vested in the President."

The judicial power is vested in a Supreme Court; but will gentlemen say the judicial power can be placed elsewhere, unless the constitution has made an exception? The constitution justifies the Senate in exercising a judiciary power in determining on impeachments; but can the judicial power be further blended with the powers of that body? They cannot. I therefore say it is inconvertible, if neither the legislative nor judicial powers are subjected to qualifications, other than those demanded in the constitution, that the executive powers are equally unabateable as either of the others; and inasmuch as the power of removal is of an executive nature, and not affected by any constitutional exception, it is beyond the reach of the legislative body.

If this is the true construction of this instrument, the clause in the bill is nothing more than explanatory of the meaning of the constitution, and therefore not liable to any particular objection on that account. If the constitution is silent, and it is a power the Legislature have a right to confer, it will appear to the world, if we strike out the clause, as if we doubted the propriety of vesting it in the President of the United States. I therefore think it best to retain it in the bill.

MR. VINING.—I hoped, Mr. Chairman, after the discussion this subject had received on a former occasion, that it would have been unnecessary to re-examine it. The arguments against the clause are reiterated; but, I trust, without a chance of success. They were fully answered before; and I expect the impressions made at that time are not already effaced. The House, as well as the Committee of the whole, have determined that those words shall be inserted in the bill; the special committee could therefore do no less than place them where they are; a deference is due to the decision of the House.

The House has determined to make a declaration of their construction on the constitution. I am perfectly in sentiment with the majority on this occasion; and contend, that if this power is not in the President, it is not vested in any body whatever. It cannot be within the legislative power of the Senate, because it is of an adverse nature; it cannot be within the executive power of the Senate, because they possess none but what is expressly granted by

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

the constitution. If gentlemen will point out where the constitution confers this power upon the Senate, I will read my recantation, and subscribe to the justness of their doctrine.

I am not satisfied that removability shall be acquired only by impeachment. Were the advocates of this doctrine aware of its consequences, when they advanced it? The Senate has the sole power of trying impeachments; the President is here out of the question. If no officer can be constitutionally removed but by impeachment, it applies to subordinate officers as well as heads of departments. For the constitution only gives power to Congress to establish officers by law, and vests the appointment in the President. If these officers are not removable but by impeachment, what is to become of our affairs, when any of the accidents occur which were enumerated by the gentleman from Massachusetts (Mr. SENEWICK)? Are we to take the circuitous route of impeachment? The dilatory and inefficient process by that mode, will not apply the remedy to the evil till it is too late to be of advantage. Experience has fixed an eternal stigma upon the system of impeachment; witness the case I mentioned, the other day, of Warren Hastings before the British Lords; what delays and uncertainty with the forms of trial, details of evidence, arguments of counsel, and deliberate decision! I ask gentlemen, can there be a greater evil than this in any Government? Why, then, will gentlemen advocate a doctrine so obnoxious to the principles of the constitution, when a more favorable construction is at hand?

As to the principle of the gentleman from Virginia, (Mr. WHITE,) that he who appoints must remove; it may be a good one, but it is not a general one. Under this Government, officers appointed by the people are removed by the representatives of the State Legislatures. I take it that the best principle is, that he who is responsible for the conduct of the officer, ought to have the power of removing him; by adhering to this principle, we shall be led to make a right decision on the point in debate. Perhaps it might be equally right that the responsible person should have the appointment of those who are to aid him. But this case is qualified by an express stipulation in the constitution; and, therefore, must be submitted to. Yet, nevertheless, the responsibility is kept up: the President takes the lead in the business; he nominates, wherefore he becomes answerable for the officer. But whose officer is he? Not the Senate's; for they have no executive business to perform. The executive duties are all vested in the President. Then the President executes the duties of foreign affairs. He is answerable for his conduct—to whom? To be sure, to the Senate. But he does not appoint the officer; he first selects, without advice of the Senate; he cannot appoint. This is a check to an improper choice; but does not destroy the responsibility of the President, if he nominates a vicious or improper character.

It may be contended, on the gentleman's principles, that the President shall have the power of removal; because it is he who appoints. The constitution says, he shall nominate, and, under certain qualifications, appoint. The Senate do not appoint; their judgment only is required to acquiesce in the President's nomination. Where, then, is the natural responsibility placed? Because, where that is, ought to be the power of removal. The constitution contemplates no other principle. If we were to insert a contrary one, the Government must go to destruction.

Mr. WHITE.—Mention has been made of impeachments, as the only mode of removing an officer. I will explain my ideas on this point, in order that the committee may be masters of my particular objections to the clause. I consider impeachments necessary to be employed in cases respecting an officer who is appointed during good behavior. Thus the judges can only be removed by impeachment. The President and Vice-President hold their offices for the terms mentioned in the constitution, not liable to be removed from office in any other way. These circumstances are a deviation from my general principle; but have nevertheless a proper ground to be supported on. The electors who appoint the President, cannot assemble to exercise the authority which would naturally be in them. With respect to the judges, it is found necessary for the proper and uncorrupt administration of justice, and the security of freedom, to have them independent in their stations, so that they be not removable at pleasure. To them, therefore, the doctrine of impeachment is peculiarly applicable. It may properly be extended further, in cases where the President is desirous of retaining an officer who ought not to be retained. This House has the power of controlling him, and may impeach the officer before the Senate. In either of these three cases impeachments are necessary.

I have no doubt in my mind, but an officer can be removed without a public trial. I think there are cases in which it would be improper that his misdemeanors should be publicly known. The tranquillity and harmony of the Union might be endangered, if his guilt were not secreted from the world. I have therefore no hesitation in declaring as my sentiment, that the President and Senate may dismiss him.

The constitution contemplates a removal in some other way besides that by impeachment; or why is it declared in favor of the judges only, that they shall hold their offices during good behavior? Does not this strongly imply, that, without such an exception, there would have been a discretionary power in some branch of the Government to dismiss even them?

My colleague (Mr. MADISON) has acknowledged the clause to be unnecessary, if the constitution is allowed its free operation. Now it is my wish that it should have such an operation, and not be wrested by a declaration in a law contrary to what I take to be the true con-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 16, 1789.]

struction. If we are silent on this point, it will probably be allowed a fair interpretation when the power is required to be exercised; but if it could not be adjusted easily in that place, I would rather the Judiciary should decide the point, because it is more properly within their department.

I differ also with my colleague in the principle that he has laid down, that this is in its nature an executive power. The constitution supposes power incident to Government, and arranges it into distinct branches, with or without checks; but it enumerates under each department the powers it may exercise. The Legislature may exert its authority in passing laws relating to any of its particular powers. The executive power is vested in the President; but the executive powers so vested, are those enumerated in the constitution. He may nominate, and, by and with the advice and consent of the Senate, appoint all officers, because the constitution gives this power, and not because the power is in its nature a power incident to his department. My ideas of the legislative and executive powers are precisely the same. The Legislature may do certain acts because the constitution says they shall have power to do them, and the Executive Magistrate is authorized to exercise powers because they are vested in him by the same instrument. It has given him the power of appointment under certain qualifications; the power of removal is incident to the power of appointment, and both equally dependent upon the arrangement made in the constitution; consequently, a dismission from office must be brought about by the same modification as the appointment.

Several objections have arisen from the inconvenience with which the power must be exercised, if the Senate is blended with the Executive; and therefore it is inferred that the President ought exclusively to have this power. If we were framing a constitution, these arguments would have their proper weight, and I might approve such an arrangement. But at present, I do not consider we are at liberty to deliberate on that subject. The constitution is already formed, and we can go no further in distributing the powers than the constitution warrants.

It was objected that the President could not remove an officer unless the Senate was in session; but yet the emergency of the case might demand an instant dismission. I should imagine that no inconvenience would result on this account; because, on my principle, the same power which can make a temporary appointment, can make an equal suspension; the powers are apposite to each other.

The gentleman says, we ought not to blend the executive and legislative powers further than they are blended in the constitution. I contend we do not. There is no expression in the constitution which says that the President shall have the power of removal from office; but the contrary is strongly implied: for it is

said, that Congress may establish offices by law, and vest the appointment, and consequently the removal, in the President alone, in the courts of law or heads of departments. Now, this shows that Congress are not at liberty to make any alteration by law in the mode of appointing superior officers; and, consequently, that they are not at liberty to alter the manner of removal.

Let us, then, leave the constitution to a free operation, and let the President, with or without the Senate, carry it into execution. Then, if any one supposes himself injured by their determination, let him have recourse to the law, and its decision will establish the true construction of the constitution.

Mr. BOUDINOT.—This is a question, Mr. Speaker, that requires full consideration, and ought only to be settled on the most candid discussion. It certainly involves the right of the Senate to a very important power. At present, I am so impressed with the importance of the subject, that I dare not absolutely decide on any principle, although I am firmly persuaded we ought to retain the clause in the bill; and, so far as it has been examined, I agree that it is a legislative construction of the constitution, necessary to be settled for the direction of your officers. But if it is a deviation from the constitution, or in the least degree an infringement upon the authority of the other branch of the Legislature, I shall most decidedly be against it. But I think it will appear, on a full consideration of this business, that we can do no otherwise than agree to this construction, in order to preserve to each department the full exercise of its powers, and to give this House security for the proper conduct of the officers who are to execute the laws.

The arguments adduced, are to show that the power of removal lies either in the President and Senate, or the President alone, except in cases of removal by impeachment. There is nothing, I take it, in the constitution, or the reason of the thing, that officers should be only removable by impeachment. Such a provision would be derogatory to the powers of Government, and subversive of the rights of the people. What says the constitution on the point? (I fear, sir, it has not been rightly comprehended.) That the House of Representatives shall have the sole power of impeachment; that the Senate shall have the sole power to try all impeachments; and judgment shall not extend further than to removal from office, and disqualification to hold it in future. Then comes the clause declaring absolutely that he shall be removed from office on impeachment for, and on conviction of treason, bribery, or other high crimes or misdemeanors. It is this clause which guards the rights of the House, and enables them to pull down an improper officer, although he should be supported by all the power of the Executive. This, then, is a necessary security to the people, and one that is wisely provided in the constitution. But I believe it is nowhere said that officers shall never be re-

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

moved but by impeachment; but it says they shall be removed on impeachment. Suppose the Secretary of Foreign Affairs shall misbehave, and we impeach him; notwithstanding the clearest proof of guilt, the Senate might only impose some trifling punishment, and retain him in office, if it were not for this declaration in the constitution.

Neither this clause, nor any other, goes so far as to say it shall be the only mode of removal; therefore, we may proceed to inquire what the other is. Let us examine whether it belongs to the Senate and President. Certainly, sir, there is nothing that gives the Senate this right in express terms; but they are authorized, in express words, to be concerned in the appointment. And does this necessarily include the power of removal? If the President complains to the Senate of the misconduct of an officer, and desires their advice and consent to the removal, what are the Senate to do? Most certainly they will inquire if the complaint is well founded. To do this, they must call the officer before them to answer. Who, then, are the parties? The supreme Executive officer against his assistant; and the Senate are to sit as judges to determine whether sufficient cause of removal exists. Does not this set the Senate over the head of the President? But suppose they shall decide in favor of the officer, what a situation is the President then in, surrounded by officers with whom, by his situation, he is compelled to act, but in whom he can have no confidence, reversing the privilege given him by the constitution, to prevent his having officers imposed upon him who do not meet his approbation?

But I have another more solid objection, which places the question in a more important point of view. The constitution has placed the Senate as the only security and barrier between the House of Representatives and the President. Suppose the President has desired the Senate to concur in removing an officer, and they have declined; or suppose the House have applied to the President and Senate to remove an officer obnoxious to them, and they determine against the measure, the House can have recourse to nothing but an impeachment, if they suppose the criminality of the officer will warrant such procedure. Will the Senate then be that upright court which they ought to appeal to on this occasion, when they have prejudged your cause? I conceive the Senate will be too much under the control of their former decision, to be a proper body for this House to apply to for impartial justice.

As the Senate are the dernier resort, and the only court of judicature which can determine on cases of impeachment, I am for preserving them free and independent, both on account of the officer and this House. I therefore conceive that it was never the intention of the constitution to vest the power of removal in the President and Senate; but, as it must exist somewhere, it rests on the President alone. I

conceive this point was made fully to appear by the honorable gentleman from Virginia, (Mr. MADISON,) inasmuch as the President is the supreme Executive officer of the United States.

If the doctrine of the gentleman from South Carolina is true, then it follows, that every officer has perpetuity in office, at least during good behavior. If this is to be the case, there was no necessity for declaring in the constitution that the judges shall hold their offices during good behavior. This would be destroying the responsibility of the President, and establishing such a principle in the Government as would be extremely dangerous.

It was asked, if ever we knew a person removed from office by reason of sickness or ignorance. If there never was such a case, it is, perhaps, nevertheless proper that they should be removed for those reasons; and we shall do well to establish the principle.

Suppose your Secretary of Foreign Affairs rendered incapable of thought or action by a paralytic stroke: I ask whether there would be any propriety in keeping such a person in office, and whether the *salus populi*, the first object of republican Governments, does not absolutely demand his dismissal. Can it be expected that the President is responsible for an officer under these circumstances, although when he went into office he might have been a wise and virtuous man, and the President well inclined to risk his own reputation upon the integrity and abilities of the person?

I conceive it will be improper to leave the determination of this question to the judges. There will be some indelicacy in subjecting the executive action in this particular to a suit at law; and there may be much inconvenience if the President does not exercise this prerogative until it is decided by the courts of justice.

From these considerations, the safety of the people, the security of this House, and the adherence to the spirit of the constitution, I am disposed to think the clause proper; and as some doubts respecting the construction of the constitution have arisen, I think it also necessary. Therefore, I hope it will remain.

Mr. SMITH, of South Carolina.—I have attended to the arguments of the gentlemen who oppose the motion for striking out, and I apprehend that their reasoning is not perfectly consistent. The construction of some gentlemen is, that the power of removal is given to the President by the constitution. Others are of opinion that the constitution is silent; and therefore the House ought to give it. To oppose these adverse arguments, I must return to my strong ground on which my opponents dare not venture. I state again, that if the constitution has given the power, it is unnecessary to give it here; or if it has not given it, we have no right to confer it, because it is not within the enumerated powers delegated to Congress.

Gentlemen have said that it is proper to give a legislative construction of the constitution. I differ with them on this point. I think it an

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 16, 1789.]

infringement of the powers of the Judiciary. It is said, we ought not to blend the legislative, executive, or judiciary powers, further than is done by the constitution; and yet the advocates for preserving each department pure and untouched by the others, call upon this House to exercise the powers of the judges in expounding the constitution. What authority has this House to explain the law? But if it has this privilege, the Senate is also invested with it as part of the Legislature; and, in exercising it on the present question, we shall be likely to differ. If the constitution is silent, and gentlemen admit this, it is possible the Senate may view it with a favorable eye to their own right, and reject the bill on account of this clause. A great deal of mischief has arisen in the several States, by the Legislatures undertaking to decide constitutional questions. Sir, it is the duty of the Legislature to make laws; your judges are to expound them.

It has been said, that cases of impeachment do not extend to officers who are indolent or delirious. I said before, that if a person become indolent, he will neglect his duty, and for that cause I presume he may be impeached. Gentlemen have found out that impeachment is a tedious process; I apprehend the person who is impeached will not think it a dilatory process, but such a one as is wisely inserted in the constitution for the protection of his person and property. The delay of which gentlemen complain is the greatest bulwark of liberty. Our ancestors who were tenacious of their privileges, guarded them in the best manner they could devise to prevent the inroads of despotism. As well may gentlemen complain of the tedious process in other criminal cases, by indictment of a grand jury and trial by a petit jury. I hope it is not contemplated (if it is, I hope never to see adopted in this country a summary process) to hurry on judgment without reflection. Such doctrine may suit the meridian of Turkey, where a Cadi can give the order and the bowstring at the same moment.

If the constitution does not extend to insanity, or disability by reason of sickness, then let the law declare him removed until his recovery. But gentlemen's arguments go to prove that the constitution authorizes the removal for this reason. Why, the same argument would apply to the President and Vice President, if they were to become delirious; yet I think they could not constitutionally be removed for such a cause.

The constitution declares that an officer shall be removed by impeachment for treason, bribery, or other high crimes or misdemeanors; yet the doctrine of gentlemen will enable the President, or the President with the advice of the Senate, to inflict the punishment without trial, when the constitution requires it to be done on impeachment and conviction. This appears to me so inconsistent, that I can by no means be reconciled to it. If this be wrong in the constitution, it may be proper to amend it in that particular; and when the subject of

amendments is taken up, let Congress recommend it with the other improvements to that system. But we cannot now proceed on this idea. For my part, I think, under the constitution as it now stands, we have no other way to remove an officer than by impeachment.

The gentleman from Virginia has said, that the power of removal is executive in its nature. I do not believe this to be the case. I have turned over the constitutions of most of the States, and I do not find that any of them have granted this power to the Governor. In some instances, I find the Executive Magistrate suspends, but none of them have the right to remove officers; and I take it that the constitution of the United States has distributed the powers of Government on the same principles which most of the State constitutions have adopted. For it will not be contended that the State Governments did not furnish the members of the late convention with the skeleton of this constitution.

The gentlemen have observed, that it would be dangerous if the President had not this power. But is there not danger in making your Secretary of Foreign Affairs dependent upon the will and pleasure of the President? Can gentlemen see the danger on one side only? Suppose the President averse to a just and honorable war which Congress have embarked in, can he not countenance the Secretary of War (for it is in contemplation to establish such an officer) in the waste of public stores, and misapplication of the supplies? Nay, cannot he dragoon your officer into a compliance with his designs, by threatening him with a removal by which his reputation and property would be destroyed? If the officer were established on a better tenure, he would dare to be honest; he would know himself invulnerable in his integrity, and defy the shafts of malevolence, though aimed with Machiavelian policy. He would be a barrier to your Executive officer, and save the State from ruin.

But, Mr. Chairman, the argument does not turn upon the expediency of the measure. The great question is with respect to its constitutionality. And as yet I have heard no argument advanced sufficiently cogent to prove to my mind that the constitution warrants such a disposition of the power of removal; and until I am convinced that it is both expedient and constitutional, I cannot agree to it.

Mr. GERRY.—Some gentlemen consider this as a question of policy; but to me it appears a question of constitutionality, and I presume it will be determined on that point alone. The best arguments I have heard urged on this occasion came from the honorable gentleman from Virginia, (Mr. MADISON.) He says the constitution has vested the executive power in the President; and that he has a right to exercise it under the qualifications therein made. He lays it down as a maxim, that the constitution vesting in the President the executive power, naturally vests him with the power of appointment and remo-

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

val. Now I would be glad to know from that gentleman by what means we are to decide this question. Is his maxim supported by precedent drawn from the practice of the individual States? The direct contrary is established. In many cases the Executives are not in particular vested with the power of appointment; and do they exercise that power by virtue of their office? It will be found that other branches of the Government make appointments. How then can gentlemen assert that the powers of appointment and removal are incident to the Executive Department of Government? To me it appears at best but problematical. Neither is it clear to me that the power that appoints naturally possesses the power of removal. As we have no certainty on either of these points, I think we must consider it as established by the constitution.

It has been argued, that if the power of removal vests in the President alone, it annuls or renders nugatory the clause in the constitution, which directs the concurrence of the Senate in the case of appointment; it behooves us not to adopt principles subversive of those established by the constitution. It has been frequently asserted on former occasions, that the Senate is a permanent body, and was so constructed in order to give durability to public measures. If they are not absolutely permanent, they are formed on a renovating principle, which gives them a salutary stability. This is not the case either with the President or House of Representatives; nor is the Judiciary equally lasting, because the officers are subject to natural dissolution. It appears to me, that a permanency was expected in the Magistracy; and therefore the Senate were combined in the appointment to office. But if the President alone has the power of removal, it is in his power at any time to destroy all that has been done. It appears to me, that such a principle would be destructive of the intention of the constitution expressed by giving the power of appointment to the Senate. It also subverts the clause which gives the Senate the sole power of trying impeachments, because the President may remove the officer in order to screen him from the effects of their judgment on an impeachment. Why should we construe any part of the constitution in such a manner as to destroy its essential principles, when a more consonant construction can be obtained?

It appears very clear to me, that however this power may be distributed by the constitution, the House of Representatives have nothing to do with it. Why then should we interfere in the business? Are we afraid that the President and Senate are not sufficiently informed to know their respective duties? Our interposition argues that they want judgment, and are not able to adjust their powers without the wisdom of this House to assist them; to say the least on this point, it must be deemed indelicate for us to intermeddle with them. If the fact is, as we seem to suspect, that they do not understand

the constitution, let it go before the proper tribunal; the judges are the constitutional umpires on such questions. Why, let me ask gentlemen, shall we commit an infraction of the constitution for fear the Senate or President should not comply with its directions?

It has been said by my colleague, that these officers are the creatures of the law; but it seems as if we were not content with that; we are making them the mere creatures of the President. They dare not exercise the privilege of their creation, if the President shall order them to forbear; because he holds their thread of life, his power will be sovereign over them, and will soon swallow up the small security we have in the Senate's concurrence to the appointment, and we shall shortly need no other than the authority of the Supreme Executive officer to nominate, appoint, continue, or remove.

Mr. AMES.—When this question was agitated at a former period, I took no part in the debate. I believe it was then proposed, without any idea or intention of drawing on a lengthy discussion, and to me it appeared to be well understood and settled by the House; but since it has been reiterated and contested again, I feel it my bounden duty to deliver the reasons for voting in the manner I then did, and shall now do. Mr. Chairman, I look upon every question which touches the constitution as serious and important, and therefore worthy of the fullest discussion, and the most solemn decision. I believe, on the present occasion, we may come to something near certainty, by attending to the leading principles of the constitution. In order that the good purposes of a Federal Government should be answered, it was necessary to delegate considerable powers; and the principle upon which the grant was made, intended to give sufficient power to do all possible good, but to restrain the rulers from doing mischief.

The constitution places all executive power in the hands of the President, and could he personally execute all the laws, there would be no occasion for establishing auxiliaries; but the circumscribed powers of human nature in one man, demand the aid of others. When the objects are widely stretched out, or greatly diversified, meandering through such an extent of territory as that the United States possess, a minister cannot see with his own eyes every transaction, or feel with his hands the minutiae that pass through his department. He must therefore have assistants. But in order that he may be responsible to his country, he must have a choice in selecting his assistants, a control over them, with power to remove them when he finds the qualifications which induced their appointment cease to exist. There are officers under the constitution who hold their office by a different tenure—your judges are appointed during good behavior; and from the delicacy and peculiar nature of their trust, it is right it should be so, in order that they may be independent and impartial in administering justice between

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 16, 1789.]

the Government and its citizens. But the removability of the one class, or immovability of the other, is founded on the same principle, the security of the people against the abuse of power. Does any gentleman imagine that an officer is entitled to his office as to an estate? Or does the Legislature establish them for the convenience of an individual? For my part, I conceive it intended to carry into effect the purposes for which the constitution was intended.

The executive powers are delegated to the President, with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the laws. The only bond between him and those he employs, is the confidence he has in their integrity and talents; when that confidence ceases, the principal ought to have power to remove those whom he can no longer trust with safety. If an officer shall be guilty of neglect or infidelity, there can be no doubt but he ought to be removed; yet there may be numerous causes for removal which do not amount to a crime. He may propose to do a mischief; but I believe the mere intention would not be cause of impeachment. He may lose the confidence of the people upon suspicion, in which case it would be improper to retain him in service; he ought to be removed at any time, when, instead of doing the greatest possible good, he is likely to do an injury to the public interest by being continued in the administration.

I presume gentlemen will generally admit that officers ought to be removed when they become obnoxious; but the question is, how shall this power be exercised? It will not I apprehend be contended, that all officers hold their offices during good behavior. If this be the case, it is a most singular Government. I believe there is not another in the universe that bears the least semblance to it in this particular; such a principle, I take it, is contrary to the nature of things. But the manner how to remove is the question. If the officer misbehaves, he can be removed by impeachment; but in this case is impeachment the only mode of removal? It would be found very inconvenient to have a man continued in office after being impeached, and when all confidence in him was suspended or lost. Would not the end of impeachment be defeated by this means? If Mr. Hastings, who was mentioned by the gentleman from Delaware (Mr. VINING) preserved his command in India, could he not defeat the impeachment now pending in Great Britain? If that doctrine obtains in America, we shall find impeachments come too late; while we are preparing the process, the mischief will be perpetrated, and the offender will escape. I apprehend it will be as frequently necessary to prevent crimes as to punish them; and it may often happen that the only prevention is by removal. The superintending power possessed by the President, will perhaps enable him to discover a base intention before it is ripe for execution. It may happen

that the Treasurer may be disposed to betray the public chest to the enemy, and so injure the Government beyond the possibility of reparation; should the President be restrained from removing so dangerous an officer, until the slow formality of an impeachment was complied with, when the nature of the case rendered the application of a sudden and decisive remedy indispensable?

But it will, I say, be admitted, that an officer may be removed. The question then is, by whom? Some gentlemen say by the President alone; and others, by the President, by and with the advice of the Senate. By the advocates of the latter mode, it is alleged, that the constitution is in the way of the power of removal being by the President alone. If this is absolutely the case, there is an end to all further inquiry. But before we suffer this to be considered as an insuperable impediment, we ought to be clear that the constitution prohibits him the exercise of what, on a first view, appears to be a power incident to the executive branch of the Government. The gentleman from Virginia (Mr. MADISON) has made so many observations to evince the constitutionality of the clause, that it is unnecessary to go over the ground again. I shall therefore confine myself to answer only some remarks made by the gentleman from South Carolina, (Mr. SMITH.) The powers of the President are defined in the constitution; but it is said, that he is not expressly authorized to remove from office. If the constitution is silent also with respect to the Senate, the argument may be retorted. If this silence proves that the power cannot be exercised by the President, it certainly proves that it cannot be exercised by the President, by and with the advice and consent of the Senate. The power of removal is incident to Government; but not being distributed by the constitution, it will come before the Legislature, and, like every other omitted case, must be supplied by law.

Gentlemen have said, when the question was formerly before us, that all powers not intended to be given up to the General Government were retained. I beg gentlemen, when they undertake to argue from implication, to be consistent, and admit the force of other arguments drawn from the same source. It is a leading principle in every free Government, it is a prominent feature in this, that the legislative and executive powers should be kept distinct; yet the attempt to blend the executive and legislative departments in exercising the power of removal, is such a mixing as ought not to be carried into practice on arguments grounded on implication. And the gentleman from Virginia, (Mr. WHITE'S), reasoning is wholly drawn from implication. He supposes, as the constitution qualifies the President's power of appointing to office, by subjecting his nomination to the concurrence of the Senate, that the qualification follows of course in the removal.

If this is to be considered as a question un-

JUNE 16, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

decided by the constitution, and submitted on the footing of expediency, it will be well to consider where the power can be most usefully deposited for the security and benefit of the people. It has been said, by the gentleman on the other side of the House, (Mr. SMITH,) that there is an impropriety in allowing the exercise of this power; that it is a dangerous authority, and much evil may result to the liberty and property of the officer, who may be turned out of business without a moment's warning. I take it, the question is not whether such power shall be given or retained; because it is admitted on all hands, that the officer may be removed; so that it is no grant of power; it raises no new danger. If we strike out the clause, we do not keep the power, nor prevent the exercise of it; so that the gentleman will derive none of the security he contemplates by agreeing to the motion for striking out. It will be found, that the nature of the business requires it to be conducted by the head of the Executive; and I believe it will be found even there, that more injury will arise from not removing improper officers, than from displacing good ones. I believe experience has convinced us that it is an irksome business; and officers are more frequently continued in place after they become unfit to perform their duties, than turned out while their talents and integrity are useful. But advantages may result from keeping the power of removal *in terrorem* over the heads of the officers; they will be stimulated to do their duty to the satisfaction of the principal, who is to be responsible for the whole executive department.

The gentleman has supposed there will be great difficulty in getting officers of abilities to engage in the service of their country upon such terms. There has never yet been any scarcity of proper officers in any department of the Government of the United States, even during the war; when men risked their lives and property by engaging in such service, there were candidates enough. But why should we connect the Senate in the removal? Their attention is taken up with other important business, and they have no constitutional authority to watch the conduct of the executive officers; and therefore, cannot use such authority with advantage. If the President is inclined to shelter himself behind the Senate, with respect to having continued an improper person in office, we lose the responsibility, which is our greatest security; the blame among so many will be lost. Another reason occurs to me against blending these powers. An officer who superintends the public revenue will naturally acquire a great influence. If he obtains support in the Senate, upon an attempt of the President to remove him, it will be out of the power of the House, when applied to by the First Magistrate, to impeach him with success; for the very means of proving charges of mal-conduct against him, will be under the power of the officer; all the papers necessary to convict him may be with-

held while the person continues in his office. Protection may be rendered for protection; and as this officer has such extensive influence, it may be exerted to procure the re-election of his friends. These circumstances, in addition to those stated by the gentleman from Jersey, (Mr. BODINOT,) must clearly evince to every gentleman the impropriety of connecting the Senate with the President in removing from office.

I do not say these things will take effect now, and if the question only related to what might take place in a few years, I should not be uneasy on this point, because I am sensible the gentlemen who form the present Senate are above corruption; but in future ages, (and I hope this Government may be perpetuated to the end of time,) such things may take place, and it is our duty to provide against evils which may be foreseen, but, if now neglected, will be irremediable.

I beg leave to observe further, that there are three opinions entertained by gentlemen on this subject. One is, that the power of removal is prohibited by the constitution; the next is, that it requires it by the President; and the other is, that the constitution is totally silent. It therefore appears to me proper for the House to declare what is their sense of the constitution. If we declare justly on this point, it will serve for a rule of conduct to the Executive Magistrate; if we declare improperly, the judiciary will revise our decision; so that at all events I think we ought to make the declaration.

Mr. LIVERMORE.—I am for striking out this clause, Mr. Chairman, upon the principles of the constitution, from which we are not at liberty to deviate. The honorable gentleman from Massachusetts, (Mr. SEDGWICK,) calls the Minister of Foreign Affairs the creature of the law, and that very properly; because the law establishes the office, and has the power of creating him in what shape the Legislature pleases. This being the case, we have a right to create the office under such limitations and restrictions as we think proper, provided we can obtain the consent of the Senate; but it is very improper to draw as a conclusion, from having the power of giving birth to a creature, that we should therefore bring forth a monster, merely to show we had such power. I call that creature a monster that has not the proper limbs and features of its species. I think the creature we are forming is unnatural in its proportions. It has been often said, that the constitution declares the President, by and with the advice and consent of the Senate, shall appoint this officer. This, to be sure, is very true, and so is the conclusion which an honorable gentleman (Mr. WHITE) from Virginia drew from it, that an officer must be discharged in the way he was appointed.

I believe, Mr. Chairman, this question depends upon a just construction of a short clause in the constitution. "The President shall have power, by and with the advice and consent of the Senate, to appoint ambassadors,

H. of R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

other public ministers and consuls, judges of Supreme Court, and all other officers of the United States." Here is no difference with respect to the power of the President to make treaties and appoint officers, only it requires in the one case a larger majority to concur than in the other. I will not by any means suppose that gentlemen mean, when they argue in favor of removal by the President alone, to contemplate the extension of the power to the repeal of treaties; because, if they do, there will be little occasion for us to sit here. But let me ask these gentlemen, as there is no real or imaginary distinction between the appointment of ambassadors and ministers, or Secretaries of Foreign Affairs, whether they mean that the President should have the power of recalling or discarding ambassadors and military officers; for the words in the constitution are "all other officers," as well as he can remove your Secretary of Foreign Affairs. To be sure they cannot extend it to the judges; because they are secured under a subsequent article, which declares they shall hold their offices during good behavior; they have an inheritance which they cannot be divested of, but on conviction of some crime. But I presume gentlemen mean to apply it to all those who have not an inheritance in their offices. In this case, it takes the whole power of the President and Senate to create an officer, but half the power can uncreate him. Surely a law passed by the whole Legislature cannot be repealed by one branch of it; so I conceive, in the case of appointments it requires the same force to supersede an officer as to put him in office.

I acknowledge, that the clause relative to impeachment is for the benefit of the people; it is intended to enable their representatives to bring a bad officer to justice who is screened by the President; but I do not conceive, with the honorable gentlemen from South Carolina, (Mr. SMITH,) that it by any means excludes the usual ways of superseding officers. It is said in the constitution, that the House shall have the power of choosing their own officers. We have chosen a clerk, and, I am satisfied, a very capable one; but will any gentleman contend we may not discharge him and choose another and another as often as we see cause? And so it is in every other instance; where they have the power to make, they have likewise the power to unmake. It will be said by gentlemen, that the power to make does not imply the power of unmaking; but I believe they will find very few exceptions in the United States.

Were I to speak of the expediency, every one of my observations would be against it. When an important and confidential trust is placed in a man, it is worse than death to him to be displaced without cause; his reputation depends on the single will of the President, who may ruin him on bare suspicion. Nay, a new President may turn him out on mere caprice, or in order to make room for a favorite. This contradicts all my notions of propriety; every thing of this sort should be done with due deliberation;

every person ought to have a hearing before he is punished. It is on these considerations, that I wish the general principles laid down by the gentleman from Virginia (Mr. WHITE) may be adhered to.

I will add one word more and have done. This seems, Mr. Chairman, altogether to be aimed at the Senate. What have they done to chagrin us? Or why should we attempt to abridge their powers, because we can reach them by our regulations in the shape of a bill? I think we had better let it alone. If the constitution has given them this power, they will reject this part of the bill, and they will exercise that one privilege judiciously, however they may the power of removal. If the constitution has not given it to them, it has not vested it any where else; consequently, this House would have no right to confer it.

On motion, the committee rose and reported progress.

WEDNESDAY, June 17.

GEORGE MATTHEWS, from Georgia, appeared and took his seat.

DEPARTMENT OF FOREIGN AFFAIRS.

The House resolved itself into a Committee of the whole on the bill establishing an executive department, to be denominated the Department of Foreign Affairs, Mr. TRUMBULL in the Chair. The clause, "to be removable by the President," being under consideration.

Mr. HARTLEY.—I was not present when this question was first brought before the House; but I heard the arguments which were yesterday urged against the President's exercising the power of removal, and am by no means satisfied that they are well founded. If no better are brought forward, I shall be against striking out. It was contended by one gentleman, that the appointment to this office was to be during good behavior; and asserted by others, that the President had not the power of removal without the advice and consent of the Senate. I mean to offer a few remarks on these positions. But first, I would observe, that this is an office of considerable importance, if we are to judge by the duties assigned in the body of the bill. In all commercial countries, it will require men of high talents to fill such an office, and great responsibility. It is necessary to connect the business in such a manner as to give the President of the United States a complete command over it; so, in whatever hands it is placed, or however modulated, it must be subjected to his inspection and control. This certainly is the fair construction of the constitution, and a practical recognition of the principles upon which republican Governments are founded in general, and this in particular.

I apprehend, Mr. Chairman, that this officer cannot be considered as appointed during good behavior, even in point of policy; but with respect to the constitutionality, I am pretty confident he cannot be viewed in that light. The

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

constitution declares the tenure of the officers it recognises, and says one class of them shall hold their offices during good behavior—they are the judges of your supreme and other courts; but as to any other officer being established on this firm tenure, the constitution is silent. It then necessarily follows, that we must consider every other according to its nature, and regulate it in a corresponding manner. The business of the Secretary of Foreign Affairs is of an executive nature, and must consequently be attached to the executive department.

I think the gentleman from South Carolina goes too far in saying, that the clause respecting impeachments implies that there is no other mode of removing an officer. I think it does not follow, that because one mode is pointed out by the constitution, there is no other, especially if that provision is intended for nothing more than a punishment for a crime. The fourth section of the second article says, that all civil officers shall be removed on conviction of certain crimes. But it cannot be the intention of the constitution to prevent by this a removal in every other way: such a principle, if once admitted, would be attended with very inconvenient and mischievous consequences.

The gentleman further contends, that every man has a property in his office, and ought not to be removed but for criminal conduct; he ought not to be removed for inability. I hope this doctrine will never be admitted in this country. A man when in office ought to have abilities to discharge the duties of it; if he is discovered to be unfit, he ought to be immediately removed, but not on the principles that gentleman contends for. If he has an estate in his office, his right must be purchased, and a practice like what obtains in England will be adopted here; we shall be unable to dismiss an officer without allowing him a pension for the interest he is deprived of. Such doctrine may suit a nation, which is strong in proportion to the number of dependents upon the crown, but will be very pernicious in a republic like ours. When we have established an office, let the provision for the support of the officer be sufficient to compensate his services; but never let it be said that he has an estate in his office when he is found unfit to perform his duties. If offices are to be held during good behavior, it is easy to foresee that we shall have as many factions as heads of departments. The consequence would be corruption in one of the great departments of Government; and if the balance is once destroyed, the constitution must fall amidst the ruins. From this view of the subject, I have no difficulty to declare, that the Secretary of Foreign Affairs is an officer during pleasure, and not during good behavior, as contended for.

One gentleman (Mr. WHITE) holds the same principles, but differs with respect to the power which ought to exercise the privilege of removal. On this point, we are reduced to a matter of construction; but it is of high importance to the United States that a construction should be

rightly made. But gentlemen say it is inconsistent with the constitution to make this declaration; that, as the constitution is silent, we ought not to be explicit. The constitution has expressly pointed out several matters which we can do, and some which we cannot do; but in other matters it is silent, and leaves them to the discretion of the Legislature. If this is not the case, why was the last clause of the eighth section of the first article inserted? It gives power to Congress to make all laws necessary and proper to carry the Government into effect.

I look upon it that the Legislature have therefore a right to exercise their discretion on such questions; and however attentively gentlemen may have examined the constitution on this point, I trust they have discovered no clause which forbids this House interfering in business necessary and proper to carry the Government into effect.

The constitution grants expressly to the President the power of filling all vacancies during the recess of the Senate. This is a temporary power like that of removal, and liable to very few of the objections which have been made. When the President has removed an officer, another must be appointed; but this cannot be done without the advice and consent of the Senate: where then is the danger of a system of favoritism? The President, notwithstanding the supposed depravity of mankind, will hardly remove a worthy officer to make way for a person whom the Senate may reject. Another reason why the power of removal should be lodged with the President, rather than the Senate, arises from their connexion with the people. The President is the representative of the people in a near and equal manner; he is the guardian of his country. The Senate are the representatives of the State Legislatures; but they are very unequal in that representation. Each State sends two members to that House, although their proportions are as ten to one. Hence arises a degree of insecurity to an impartial administration; but if they possessed every advantage of equality, they cannot be the proper body to inspect into the proper behavior of officers, because they have no constitutional powers for this purpose. It does not always imply criminality to be removed from office, because it may be proper to remove for other causes; neither do I see any danger which may result from the exercise of this power by the President, because the Senate is to be consulted in the appointment which is afterwards to take place. Under these circumstances, I repeat it, that I have no doubt in my own mind, that this office is during pleasure, and that the power of removal which is a mere temporary one, ought to be in the President, whose powers, taken together, are not very numerous, and the success of this Government depends upon their being unimpaired.

Mr. LAWRENCE.—I was in hopes, as this question was pretty fully discussed before, the House would not have been troubled again with it. But as much has again been said in opposi-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

tion, I should not feel a conscious discharge of my duty, unless I offered those sentiments which have forcibly impressed my mind with their weight, and induced me to vote in favor of the clause.

It has been objected against this clause, that the granting of this power is unconstitutional; it was also objected, that if not unconstitutional, it is unnecessary; that the constitution must contain in itself the power of removal, and have given it to some body or person of the Government to be exercised; that therefore the law could make no disposition of it, and the attempt to grant it was unconstitutional, or the law is unnecessary; for if the power is granted in the way the clause supposes, the Legislature can neither add to nor diminish the power by making the declaration.

With respect to the unconstitutionality of the measure, I observe that if it is so, the constitution must have given the power expressly to some person or body other than the President; otherwise it cannot be said with certainty that it is unconstitutional in us to declare that he shall have the power of removal. I believe it is not contended that the constitution expressly gives this power to any other person; but it is contended that the objection is collected from the nature of the body which has the appointment, and the particular clause in the constitution which declares that all officers shall be removed on conviction. It will be necessary to examine the expressions of that clause; I believe it will be found not to comprehend the case we have under consideration. I suppose the constitution contemplates somewhere the power of removal for other causes besides those expressed as causes of impeachment. I take it, that the clause in the constitution respecting impeachments, makes a provision for removal against the will of the President; because the House can carry the offender before a tribunal which shall remove him, notwithstanding the desire of the Chief Magistrate to keep him in office. If this is not to be the construction, then a particular clause in the constitution will be nugatory. The constitution declares that the judges shall hold their offices during good behavior. This implies that other officers shall hold their offices during a limited time, or according to the will of some person; because if all persons are to hold their offices during good behavior, and to be removed only by impeachment, then this particular declaration in favor of the judges will be useless. We are told that an officer must misbehave before he can be removed. This is true with respect to those officers who hold their commissions during good behavior, but it cannot be true of those who are appointed during pleasure, they may be removed for incapacity, or if their want of integrity is suspected; but the question is, to find where this power of removal resides.

It has been argued, that we are to find this in the construction arising from the nature of the authority which appoints. Here I would meet

the gentlemen if it was necessary to rest it entirely on that ground. Let me ask the gentlemen, who appoints? The constitution gives an advisory power to the Senate; but it is considered that the President makes the appointment. The appointment and responsibility are actually his; for it is expressly declared, that he shall nominate and appoint, though their advice is required to be taken. If from the nature of the appointment we are to collect the authority of removal, then I say the latter power is lodged in the President; because by the constitution he has the power of appointment; instantly as the Senate have advised the appointment, the act is required to be executed by the President. The language is explicit: "He shall nominate, and, by and with the advice and consent of the Senate, appoint;" so that if the gentlemen's general principle, that the power of appointing shall remove also be true, it follows that the removal is to be by the President.

It has been stated as an objection, that we should extend the powers of the President, if we give him the power of removal; and we are not to construe the constitution in such way as to enlarge the executive power to the injury of any other; that, as he is limited in the power of appointment by the control of the Senate, he ought to be equally limited in the removal.

If there be any weight in this argument it applies as forcibly against vesting the power conjointly in the President and Senate; because if we are not to extend the powers of the executive beyond the express detail of duties found in the constitution, neither are we at liberty to extend the duties of the Senate beyond those precise points fixed in the same instrument; of course, if we cannot say the President alone shall remove, we cannot say the President and Senate may exercise such power.

It is admitted, that the constitution is silent on this subject, but it is also silent with respect to the appointments it has vested in the Legislature. The constitution declares, that Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or heads of departments; yet says nothing with respect to the removal. Now, let us suppose the Legislature to have vested the power of appointment in the President in cases of inferior officers; can the intention of the constitution in this, contemplating this mode of appointment, for the sake of convenience, be ever carried into effect? If we say nothing respecting the removal, what would be the consequence if the Legislature should not make the declaration? Could it be supposed that he would not have the authority to dismiss the officer he had so appointed? To be sure he could; then, of course, in those cases in which the constitution has given the appointment to the President, he must have the power of removal for the sake of consistency. For no person will say, that, if the President should appoint an inferior officer, he should not have the power to remove him when he thought

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

proper, if no particular limitation was determined by the law. Thus stands the matter with respect to the constitution. There is no express prohibition of the power nor positive grant. If then we collect the power by inference from the constitution, we shall find it pointed strongly in favor of the President, much more so than in favor of the Senate combined with him.

This is a case omitted, or it is not. If it is omitted, and the power is necessary and essential to the Government and to the great interests of the United States, who are to make the provision and supply the defect? Certainly the Legislature is the proper body. It is declared they shall establish offices by law. The establishment of an office implies every thing relative to its formation, constitution, and termination; consequently, the Congress are authorized to declare their judgment on each of these points. But if the arguments of the gentleman from South Carolina (Mr. SMITH) prevail, that as the constitution has not meditated the removal of an officer in any other way than by impeachment, it would be an assumption in Congress to vest the President, courts of law, or heads of departments, with power to dismiss their officers in any other manner. Would a regulation of this kind be effectual to carry into effect the great objects of the constitution? I contend it would not. Therefore the principle which opposes the carrying of the constitution into effect, must be rejected as dangerous, and incompatible with the general welfare. Hence all those suppositions, that, because the constitution is silent, the Legislature must not supply the defect, are to be treated as chimeras and illusory inferences.

I believe it is possible that the constitution may be misconstrued by the Legislature; but, will any gentleman contend, that it is more probable that the Senate, one branch only of the Legislature, should make a more upright decision on any point than the whole Legislature, especially on a point in which they are supposed by some gentlemen to be so immediately interested, even admitting that honorable body to have more wisdom and more integrity than this House? Such an inference can hardly be admitted; but I believe it seldom or never was contended, that there was more wisdom or security in a part than in the whole.

But supposing the power to vest in the Senate, is it more safe in their hands than where we contend it should be? Would it be more satisfactory to our constituents for us to make such a declaration in their favor? I believe not.

With respect to this and every case omitted, but which can be collected from the other provisions made in the constitution, the people look up to the Legislature, the concurrent opinion of the two branches, for their construction; they conceive those cases proper subjects for legislative wisdom; they naturally suppose, where provisions are to be made, they ought to spring from this source, and this source alone.

From a view of these circumstances, we may

be induced to meet the question in force. Shall we now venture to supply the defect? For my part, I have no hesitation. We should supply the defect; we should place the power of removal in the great Executive officer of the Government.

In the constitution, the heads of departments are considered as the mere assistants of the President, in the performance of his executive duties. He has the superintendence, the control, and the inspection of their conduct; he has an intimate connexion with them; they must receive from him his orders and directions; they must answer his inquiries in writing when he requires it. Shall the person having these superior powers to govern, with such advantages of discovering and defeating the base intentions of his officers, their delinquencies, their defective abilities, or their negligence, be restrained from applying these advantages to the most useful, nay, in some cases, the only useful purpose which can be answered by them?

It appears to me, that the power can be safely lodged here. But it has been said by some gentlemen, that if it is lodged here, it will be subject to abuse; that there may be a change of officers, and a complete revolution throughout the whole executive department, upon the election of every new President. I admit this may be the case, and contend that it should be the case, if the President thinks it necessary. I contend, that every President ought to have those men about him in whom he can place the most confidence, provided the Senate approve his choice. But we are not from hence to infer, that changes will be made in a wanton manner, and from capricious motives; because the Presidents are checked and guarded in a very safe manner with respect to the appointment of their successors; from all which it may be fairly presumed, that changes will be made on principles of policy and propriety only.

Will the man chosen by three millions of his fellow-citizens be such a wretch as to abuse them in a wanton manner? For my part, I should think with the gentleman from Virginia (Mr. MADISON) that a character thus selected and honored by his country, is entitled to my confidence; and I see no reason why we should suppose he is more inclined to do harm than good. Elected as he is, I trust, we are secure. I do not draw these observations from the safety I conceive under the present administration, or because our Chief Magistrate is possessed of irradiated virtues, whose lustre brightens this Western hemisphere, and incites the admiration of the world! But I calculate upon what our mode of election is likely to bring forward, and the security which the constitution affords. If the President abuses his trust, will he escape the popular censure when the period which terminates his elevation arrives? And would he not be liable to impeachment for displacing a worthy and able man, who enjoyed the confidence of the people?

We ought not to consider one side alone, we

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

should consider the benefit of such an arrangement as well as the difficulties. We ought also to consider the difficulties arising from the exercise of the power of removing by the Senate. It was well observed by an honorable gentleman (Mr. SEDGWICK) on this point, that the Senate must continue in session the whole year, or be hastily assembled from the extremes and all parts of the continent, whenever the President thinks a removal necessary. Suppose an ambassador or minister plenipotentiary negotiating or intriguing contrary to his instructions, to the injury of the United States, before the Senate can be assembled to accede to his recall; the interest of his country may be betrayed, and the evil irrevocably perpetrated. A great number of such instances might be enumerated, sufficient to convince gentlemen that, with respect to the expediency, the power of removal ought not to be in the Senate.

I take it, Mr. Chairman, that it is proper for the Legislature to speak their sense upon those points on which the constitution is silent. I believe the judges will never decide that we are guilty of a breach of the constitution, by declaring a legislative opinion in cases where the constitution is silent. If the laws shall be in violation of any part of the constitution, the judges will not hesitate to decide against them; where the power is incident to the Government, and the constitution is silent, it can be no impediment to a legislative grant; I hold it necessary in such cases to make provision. In the case of removal, the constitution is silent; the wisdom of the Legislature should therefore declare where the power resides.

Mr. JACKSON.—Much time, Mr. Chairman, has been taken up in discussing this question; but considering its importance, I trust no complaint will be made on this account. Although I am at all times unwilling to trespass on the committee, I cannot sit still and pass this subject with a silent vote. As a constitutional question, it is of great moment, and worthy of full discussion. I am, sir, a friend to the full exercise of all the powers of Government, and deeply impressed with the necessity there exists of having an energetic Executive. But, friend as I am to an efficient Government, I value the liberties of my fellow-citizens beyond every other consideration; and where I find them endangered, I am willing to forego every other blessing to secure them. I hold it as good a maxim as it is an old one, of two evils to choose the least.

It has been mentioned, that in all Governments the Executive Magistrate has the power of dismissing officers under him. This may hold good in Europe, where monarchs claim their powers *jure divino*, but it never can be admitted in America, under a constitution delegating only enumerated powers. It requires more than a mere *ipse dixit* to demonstrate that any power is in its nature executive, and consequently given to the President of the United States by the present constitution; but if this

power is incident to the executive branch of Government, it does not follow that it vests in the President alone, because he alone does not possess all executive powers. The constitution has lodged the power of forming treaties, and all executive business, I presume, connected therewith, in the President, but it is qualified by and with the advice and consent of the Senate, provided two-thirds of the Senate agree therein; the same has taken place with respect to appointing officers. From this I infer, that those arguments are done away which the gentleman from Virginia (Mr. MADISON) used to prove, that it was contrary to the principles of the constitution that we should blend the executive and legislative powers in the same body. It may be wrong that the great powers of Government should be blended in this manner; but we cannot separate them; the error is adopted in the constitution, and can only be eradicated by weeding it out of that instrument; it may therefore be a proper subject for amendment, when we come to consider that business again.

It has been observed, that the President ought to have this power to remove a man when he becomes obnoxious to the people or disagreeable to himself. Are we, then, to have all the officers the mere creatures of the President? This thirst of power will introduce a treasury bench into the House, and we shall have ministers obtrude upon us to govern and direct the measures of the Legislature, and to support the influence of their master. And shall we establish a different influence between the people and the President? I suppose these circumstances must take place, because they have taken place in other countries. The executive power falls to the ground in England, if it cannot be supported by the Parliament; therefore a high game of corruption is played, and a majority secured to the ministry by the introduction of placemen and pensioners.

The gentlemen have brought forward arguments drawn from possibility. It is said, that our Secretary of Foreign Affairs may become unfit for his office by a fit of lunacy, and therefore a silent remedy should be applied. It is true such a case may happen, but it may also happen in cases where there is no power of removing. Suppose the President should be taken with a fit of lunacy, would it be possible by such arguments to remove him? I apprehend he must remain in office during his four years. Suppose the Senate should be seized with a fit of lunacy, and it was to extend to the House of Representatives; what could the people do but endure this mad Congress till the term of their election expired? We have seen a King of Great Britain in an absolute fit of lunacy, which produced an *interregnum* in the Government. The same may happen here with respect to our President; and although it is improbable that the majority of both Houses of Congress may be in that situation, yet it is not impossible. But gentlemen have brought forward another

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

argument with respect to the judges. It is said they are to hold their offices during good behavior: I agree that it ought to be the case. But is not a judge liable to the act of God as well as any other officer of Government? However great his legal knowledge, his judgment, and integrity, it may be taken from him at a stroke, and he rendered the most unfit of all men to fill such an important office. But can you remove him? Not for this cause, it is impossible; because madness is no treason, crime, or misdemeanor. If he does not choose to resign, like Lord Mausfield, he may continue in office for ninety or one hundred years, although seldom so long have any men retained their faculties.

But let me ask gentlemen, if it is possible to place their officers in such a situation as to deprive them of their independency and firmness; for I apprehend it is not intended to stop with the Secretary of Foreign Affairs. Let it be remembered, that the constitution gives the President the command of the military. If you give him complete power over the man with the strong box, he will have the liberties of America under his thumb. It is easy to see the evil which may result. If he wants to establish an arbitrary authority, and finds the Secretary of Finance not inclined to second his endeavors, he has nothing more to do than to remove him, and get one appointed of principles more congenial with his own. Then, says he, I have got the army; let me have but the money, and I will establish my throne upon the ruins of your visionary republic. Let no gentleman say I am contemplating imaginary dangers, the mere chimeras of a heated brain. Behold the baleful influence of the royal prerogative when officers hold their commissions during the pleasure of the crown!

At this moment, see the King of Sweden, aiming at arbitrary power, shutting up the doors of his Senate, and compelling, by force of arms, his shuddering counsellors to acquiesce in his despotic mandates. I agree that this is the hour in which we ought to establish our Government; but it is an hour in which we should be wary and cautious, especially in what respects the Executive Magistrate; with the present, I grant, every power may be safely lodged. Black indeed is the heart of that man who even suspects him to be capable of abusing them. But alas! he cannot be with us forever: he is liable to the vicissitudes of life; he is but mortal, and though I contemplate it with great regret, yet I know the period must come which will separate him from his country; and can we know the virtues or vices of his successor in a very few years? May not a man, with a Pandora's box in his breast, come into power, and give us sensible cause to lament our present confidence and want of foresight?

A gentleman has declared, that as the constitution has given the power of appointment, it has consequently given the power of removal. I agree with him in all the constitution ex-

pressly grants, but I must differ in the constructive reasoning. It was said by the advocates of this constitution, that the powers not given up in that instrument were reserved to the people. Under this impression, it has been proposed, as a favorite amendment to the constitution, that it should be declared that all powers not expressly given should be retained. As to what gentlemen have said of its giving satisfaction to the people, I deny it; they never can be pleased that we should give new and extraordinary powers to the Executive; we must confine ourselves to the powers described in the constitution, and the moment we pass it, we take an arbitrary stride towards a despotic Government.

The gentleman from New York (Mr. LAWRENCE) contends that the President appoints, and, therefore, he ought to remove. I shall agree to give him the same power in cases of removal that he has in appointing; but nothing more. Upon this principle, I would agree to give him the power of suspension during the recess of the Senate. This, in my opinion, would effectually provide against those inconveniences which have been apprehended, and not expose the Government to those abuses we have to dread from the wanton and uncontrolled authority of removing officers at pleasure. I am the friend of an energetic Government; but while we are giving vigor to the Executive arm, we ought to be careful not to lay the foundation of future tyranny. I think this power too great to be safely trusted in the hands of a single man, especially in the hands of a man who has so much constitutional power. I believe if those powers had been more contracted, the system of Government would have been more generally agreeable to our constituents; that is, at present it would conform more to the popular opinion at least. For my part, though I came from a State where the energy of Government can be useful, and where it is at this moment wanting, I cannot agree to extend this power; because I conceive it may, at some future period, be exercised in such a way as to subvert the liberties of my country; and no consideration shall ever induce me to put them in jeopardy. It is under this impression that I shall vote decidedly against the clause.

Mr. CLYMER.—If I were to give my vote merely on constitutional ground, I should be totally indifferent whether the words were struck out or not; because I am clear that the Executive has the power of removal as incident to his department; and, if the constitution had been silent with respect to the appointment, he would have had that power also. The reason, perhaps, why it was mentioned in the constitution, was to give some further security against the introduction of improper men into office. But in cases of removal there is not such necessity for this check. What great danger would arise from the removal of a worthy man, when the Senate must be consulted in the ap-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

pointment of his successor? Is it likely they will consent to advance an improper character? The presumption therefore is, that he would not abuse this power; or, if he did, only one good man would be changed for another.

If the President is divested of this power, his responsibility is destroyed; you prevent his efficiency, and disable him from affording that security to the people which the constitution contemplates. What use will it be of, to call the citizens of the Union together every four years to obtain a purified choice of a representative, if he is to be a mere cipher in the Government? The Executive must act by others; but you reduce him to a mere shadow, when you control both the power of appointment and removal; if you take away the latter power, he ought to resign the power of superintending and directing the executive parts of Government into the hands of the Senate at once, and then we become a dangerous aristocracy, or shall be more destitute of energy than any Government on earth. These being my sentiments, I wish the clause to stand as a legislative declaration, that the power of removal is constitutionally vested in the President.

MR. PAGE.—After so much has been said, I should not presume to trouble the House with my sentiments, but that I seconded the motion. I do contend it must appear to every person who reads the constitution, without hearing the ingenious explanations that have been made, that the clause in the bill is unconstitutional. How is it to be reconciled to the clause which relates to impeachments, or the clause vesting the appointment in the President, by and with the advice and consent of the Senate? But independent of these considerations, it must appear improper. I venture to assert, that this clause of the bill contains in it the seeds of royal prerogative. If gentlemen lay such stress on the energy of the Government, I beg them to consider how far this doctrine may go. Every thing which has been said in favor of energy in the Executive, may go to the destruction of freedom, and establish despotism. This very energy, so much talked of, has led many patriots to the Bastille, to the block, and to the halter. If the Chief Magistrate can take a man away from the head of a department, without assigning any reason, he may as well be invested with power, on certain occasions, to take away his existence. But will you contend, that this idea is consonant with the principles of a free Government, where no man ought to be condemned unheard, nor till after a solemn conviction of guilt on a fair and impartial trial? It would, in my opinion, be better to suffer, for a time, the mischief arising from the conduct of a bad officer, than admit principles which would lead to the establishment of despotic prerogatives. Gentlemen may be, and no doubt are, actuated by honest motives in supporting this clause; but I lament them as laboring under a fatal error, which may ruin their country.

There can be little occasion for the President

to exercise this power, unless you suppose that the appointments will be made in a careless manner, which by no means is likely to be the case; if, then, you have a good officer, why should he be made dependent upon the will of a single man? Suppose a colonel in your army should disobey his orders, or cowardly flee before the enemy; what would the general do? Would he be at liberty to dismiss the officer? No, he would suspend him until a court martial was held to decide the degree of guilt. If gentlemen had been content to say that the President might suspend, I should second their motion, and afterwards the officer might be removed by and with the advice and consent of the Senate; but to make every officer of the Government dependent on the will and pleasure of one man, will be vesting such arbitrary power in him, as to occasion every friend to liberty to tremble for his country. I confess it seems to me a matter of infinite concern, and I should feel very unhappy if I supposed the clause would remain in the bill.

MR. SHERMAN.—I consider this as a very important subject in every point of view, and therefore worthy of full discussion. In my mind, it involves three questions. First, whether the President has, by the constitution, the right to remove an officer appointed by and with the advice and consent of the Senate? No gentleman contends but that the advice and consent of the Senate are necessary to make the appointment in all cases, unless in inferior offices where the contrary is established by law; but then they allege that, although the consent of the Senate be necessary to the appointment, the President alone, by the nature of his office, has the power of removal. Now it appears to me, that this opinion is ill-founded, because this provision was intended for some useful purpose, and by that construction would answer none at all. I think the concurrence of the Senate as necessary to appoint an officer as the nomination of the President; they are constituted as mutual checks, each having a negative upon the other.

I consider it as an established principle, that the power which appoints can also remove, unless there are express exceptions made. Now the power which appoints the judges cannot displace them, because there is a constitutional restriction in their favor; otherwise the President, by and with the advice and consent of the Senate, being the power which appointed them, would be sufficient to remove them. This is the construction in England, where the King has the power of appointing judges; it was declared to be during pleasure, and they might be removed when the monarch thought proper. It is a general principle in law, as well as reason, that there shall be the same authority to remove as to establish. It is so in legislation, where the several branches whose concurrence is necessary to pass a law, must concur in repealing it. Just so, I take it, to be in cases of appointment; and the President

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

alone may remove when he alone appoints, as in the case of inferior offices to be established by law.

Here another question arises, whether this officer comes within the description of inferior officers? Some gentlemen think not, because he is the head of the Department of Foreign Affairs. Others may perhaps think, that as he is employed in the executive department, in aid of the President, he is not such an officer as is understood by the term Heads of Departments; because the President is the head of the executive department, in which the Secretary of Foreign Affairs serves. If this is the construction which gentlemen put upon the business, they may vest the appointment in the President alone, and the removal will be in him of consequence. But if this reasoning be not admitted, we can by no means vest the appointment, or removal either, in the Chief Magistrate alone. As the officer is the mere creature of the Legislature, we may form it under such regulations as we please, with such powers and duration as we think good policy requires. We may say he shall hold his office during good behavior, or that he shall be annually elected. We may say he shall be displaced for neglect of duty, and point out how he shall be convicted of it; without calling upon the President or Senate.

The third question is, if the Legislature has the power to authorize the President alone to remove this officer, whether it is expedient to invest him with it? I do not believe it is absolutely necessary that he should have such power, because the power of suspending would answer all the purposes which gentlemen have in view by giving the power of removal. I do not think that the officer is only to be removed by impeachment, as is argued by the gentleman from South Carolina, (Mr. SMITH,) because he is the mere creature of the law, and we can direct him to be removed on conviction of mismanagement or inability, without calling upon the Senate for their concurrence. But I believe, if we make no such provision, he may constitutionally be removed by the President, by and with the advice and consent of the Senate; and I believe it would be most expedient for us to say nothing in the clause on this subject.

Mr. STONE.—I think it necessary, Mr. Chairman, to determine the question before us. I do not think it would do to leave it to the determination of courts of law hereafter. It should be our duty, in cases like the present, to give our opinion on the construction of the constitution.

When the question was brought forward, I felt unhappy, because my mind was in doubt; but since then I have deliberately reflected upon it, and have made up an opinion perfectly satisfactory to myself. I consider, that in general, every officer who is appointed should be removed by the power that appoints him. It is so in the nature of things. The power of ap-

pointing an officer arises from the power over the subject on which the officer is to act. It arises from the principal who appoints having an interest in and a right to conduct the business, which he does by means of an agent. Therefore, this officer appears to be nothing more than an agent, appointed for the convenient despatch of business. This is my opinion on this subject, and the principle will operate from a Minister of State down to a tide-waiter. The constitution, it is admitted by every gentleman, recognises the principle. Because it has not been denied, whenever general appointments are made under the constitution, that they are to be at will and pleasure; that where an appointment is made during good behavior, it is an exception to the general rule. There you limit the exercise of the power which appoints. It is thus in the case of the judges.

Let us examine, then, whence originates the power of Congress with respect to the officer under consideration. I presume it is expressly contained in the constitution, or clearly deducible from that instrument, that we have a right to erect the Department of Foreign Affairs. No gentleman will consent to a reduction or relinquishment of that power. The constitution has given us the power of laying and collecting taxes, duties, imposts, and excises; this includes the power of organizing a Revenue Board. It gives us power to regulate commerce; this includes the power of establishing a Board of Trade. To make war, and organize the militia; this enables us to establish a Minister at War, and generally to make all laws necessary to carry these powers into effect. Now, it appears to me that the erection of this department is expressly within the constitution. Therefore it seems to me, as Congress, in their legislative capacity, have an interest in and power over this whole transaction, that they consequently appoint and displace their officers. But there is a provision in the constitution which takes away from us the power of appointing officers of a certain description. They are to be appointed by the President, by and with the advice and consent of the Senate. Then the constitution limits the Legislature in appointing certain officers, which would otherwise be within their power.

It will then become a considerable question, as it has been in my mind, that as, in the nature of things, the power which appoints removes also, and as the power of appointment by the constitution is placed in the President and Senate, whether the removal does not follow as incidental to that power? But I am averse to that construction, as the terms of the constitution are sufficient to invest the Legislature with complete power for performing its duties. And as it has given the power of making treaties, and judging of them, to the Senate and President, I should be inclined to believe, that as they have an immediate concern in and control over this business, they therefore ought to have the power of removal. It may be said, with

H. of R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

respect to some other officers, that, agreeable to this principle, the President alone ought to have the sole power of removal; because he is interested in it, and has the control over the business they manage. For example, take the Minister at War. The President is the commander-in-chief of the army and militia of the United States; but the ground is narrowed by the Senate being combined with him in making treaties; though even here again the ground is reduced, because of the power combined in the whole Legislature to declare war and grant supplies. If it is considered that Congress have a right to appoint these officers, or dictate the mode by which they shall be appointed, (and I calculate, in my own opinion, the manner of dismission from the mode of appointment,) I should have no doubt but we might make such regulations as we may judge proper. If the constitution had given no rule by which officers were to be appointed, I should search for one in my own mind; but as the constitution has laid down the rule, I consider the mode of removal as clearly defined as by implication it can be. It ought to be the same as that of the appointment. What quality of the human mind is necessary for the one that is not necessary for the other? Information, impartiality, and judgment in the business to be conducted, are necessary to make a good appointment. Are not the same properties requisite for a dismission? It appears so to me.

I cannot subscribe to the opinion delivered by some gentlemen, that the Executive, in its nature, implies the power to appoint the officers of Government. Why does it imply it? The appointment of officers depends upon the qualities that are necessary for forming a judgment on the merits of men; and the displacing of them, instead of including the idea of what is necessary for an executive officer, includes the idea necessary for a judicial one. Therefore it cannot exist, in the nature of things, that an executive power is either to appoint or displace the officers of Government. Is it a political dogma? Is it founded in experience? If it is, I confess it has been very long wrapped up in mysterious darkness. As a political rule, it is not common in the world, excepting in monarchies where this principle is established, that the interest of the State is included in the interest of the Prince: that whatever injures the State is an injury to the Sovereign; because he has a property in the State and the Government, and he is to take care that nothing of that kind is to be injured or destroyed. He being so intimately connected with the well-being of the nation, it appears a point of justice only to suffer him to manage his own concerns. Our principles of government are different; and the President, instead of being master of the people of America, is only their great servant. But if it arises from a political dogma, it must be subject to exceptions, which hold good as they are applied to Governments which give greater or less proportions of power to their

Executive. I shall only remark, that the constitution, in one part of it, so far as I can see, supposes that the President is the sole judge of the merits of an appointment. It is very forcible to my mind, that the constitution has confined his sole appointment to the case of inferior officers. It also strikes me, from the clause that gives the President the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment, that the constitution reposes a confidence in the Senate, which it has not done in this officer; and therefore there is no good reason for destroying that participation of power which the system of Government has given to them.

Whether it would be expedient to give the power of removal to the President alone, depends on this consideration: they are both bodies chosen with equal care and propriety; the people show as much confidence in the one as in the other. The best President and the best Senate will always be chosen, it is to be presumed, that they can get. Now I would ask, in all cases where the integrity and confidence is the same, whether it is more likely that one man should do right, and exercise his power with propriety, than a number of men with the aid of each other's deliberations? Is it more likely that a number of men should do wrong than one man? Let us examine, shortly, the temptations of one and the other. It would be more difficult for a majority to be obtained in a body composed of members of thirteen independent States, in favor of despotic measures, than might justly be expected from the caprice or want of judgment in a single individual. Is it likely the danger would be so great? I apprehend it is not. All the difficulties and embarrassments that have been mentioned, can be removed by giving to the President the power of suspension during the recess of the Senate; and I think, that an attention to the constitution will lead us to decide that this is the only proper power to be vested in the President of the United States.

MR. MADISON.—However various the opinions which exist upon the point now before us, it seems agreed on all sides, that it demands a careful investigation and full discussion. I feel the importance of the question, and know that our decision will involve the decision of all similar cases. The decision that is at this time made, will become the permanent exposition of the constitution; and on a permanent exposition of the constitution will depend the genius and character of the whole Government. It will depend, perhaps, on this decision, whether the Government shall retain that equilibrium which the constitution intended, or take a direction towards aristocracy or anarchy among the members of the Government. Hence, how careful ought we to be to give a true direction to a power so critically circumstanced! It is incumbent on us to weigh with particular attention, the arguments which have been advanced in support of the various opinions with

JUNE 17, 1789.]

Secretary of Foreign Affairs.

H. OF R.

cautious deliberation. I own to you, Mr. Chairman, that I feel great anxiety upon this question; I feel an anxiety, because I am called upon to give a decision in a case that may affect the fundamental principles of the Government under which we act, and liberty itself. But all that I can do on such an occasion is, to weigh well every thing advanced on both sides, with the purest desire to find out the true meaning of the constitution, and to be guided by that, and an attachment to the true spirit of liberty, whose influence I believe strongly predominates here.

Several constructions have been put upon the constitution relative to the point in question. The gentleman from Connecticut (Mr. SHERMAN) has advanced a doctrine which was not touched upon before. He seems to think (if I understood him rightly) that the power of displacing from office is subject to legislative discretion; because it having a right to create, it may limit or modify as it thinks proper. I shall not say but at first view this doctrine may seem to have some plausibility. But when I consider, that the constitution clearly intended to maintain a marked distinction between the legislative, executive, and judicial powers of Government; and when I consider, that if the Legislature has a power, such as contended for, they may subject and transfer at discretion powers from one department of our Government to another; they may, on that principle, exclude the President altogether from exercising any authority in the removal of officers; they may give it to the Senate alone, or the President and Senate combined; they may vest it in the whole Congress; or they may reserve it to be exercised by this House. When I consider the consequences of this doctrine, and compare them with the true principles of the constitution, I own that I cannot subscribe to it.

Another doctrine, which has found very respectable friends, has been particularly advocated by the gentleman from South Carolina, (Mr. SMITH.) It is this: when an officer is appointed by the President and Senate, he can only be displaced for malfeasance in his office by impeachment. I think this would give a stability to the executive department, so far as it may be described by the heads of departments, which is more incompatible with the genius of republican Governments in general, and this constitution in particular, than any doctrine which has yet been proposed. The danger to liberty, the danger of mal-administration, has not yet been found to lie so much in the facility of introducing improper persons into office, as in the difficulty of displacing those who are unworthy of the public trust. If it is said, that an officer once appointed shall not be displaced without the formality required by impeachment, I shall be glad to know what security we have for the faithful administration of the Government? Every individual, in the long chain which extends from the highest to the lowest link of the Executive Magistracy,

would find a security in his situation which would relax his fidelity and promptitude in the discharge of his duty.

The doctrine, however, which seems to stand most in opposition to the principles I contend for, is, that the power to annul an appointment is, in the nature of things, incidental to the power which makes the appointment. I agree that if nothing more was said in the constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be great force in saying that the power of removal resulted by a natural implication from the power of appointing. But there is another part of the constitution, no less explicit than the one on which the gentleman's doctrine is founded; it is that part which declares that the executive power shall be vested in a President of the United States. The association of the Senate with the President in exercising that particular function, is an exception to this general rule; and exceptions to general rules, I conceive, are ever to be taken strictly. But there is another part of the constitution which inclines, in my judgment, to favor the construction I put upon it; the President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. Now, if the officer when once appointed is not to depend upon the President for his official existence, but upon a distinct body, (for where there are two negatives required, either can prevent the removal,) I confess I do not see how the President can take care that the laws be faithfully executed. It is true, by a circuitous operation, he may obtain an impeachment, and even without this it is possible he may obtain the concurrence of the Senate for the purpose of displacing an officer; but would this give that species of control to the Executive Magistrate which seems to be required by the constitution? I own, if my opinion was not contrary to that entertained by what I suppose to be the minority on this question, I should be doubtful of being mistaken, when I discovered how inconsistent that construction would make the constitution with itself. I can hardly bring myself to imagine the wisdom of the convention who framed the constitution contemplated such incongruity.

There is another maxim which ought to direct us in expounding the constitution, and is of great importance. It is laid down, in most of the constitutions or bills of rights in the republics of America; it is to be found in the political writings of the most celebrated civilians, and is every where held as essential to the preservation of liberty, that the three great departments of Government be kept separate and distinct; and if in any case they are blended, it is in order to admit a partial qualification, in order more effectually to guard against an en-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

ture consolidation. I think, therefore, when we review the several parts of this constitution, when it says that the legislative powers shall be vested in a Congress of the United States under certain exceptions, and the executive power vested in the President with certain exceptions, we must suppose they were intended to be kept separate in all cases in which they are not blended, and ought, consequently, to expound the constitution so as to blend them as little as possible.

Every thing relative to the merits of the question as distinguished from a constitutional question, seems to turn on the danger of such a power vested in the President alone. But when I consider the checks under which he lies in the exercise of this power, I own to you I feel no apprehensions but what arise from the dangers incidental to the power itself; for dangers will be incidental to it, vest it where you please. I will not reiterate what was said before with respect to the mode of election, and the extreme improbability that any citizen will be selected from the mass of citizens who is not highly distinguished by his abilities and worth; in this alone we have no small security for the faithful exercise of this power. But, throwing that out of the question, let us consider the restraints he will feel after he is placed in that elevated station. It is to be remarked, that the power in this case will not consist so much in continuing a bad man in office, as in the danger of displacing a good one. Perhaps the great danger, as has been observed, of abuse in the executive power, lies in the improper continuance of bad men in office. But the power we contend for will not enable him to do this; for if an unworthy man be continued in office by an unworthy President, the House of Representatives can at any time impeach him, and the Senate can remove him, whether the President chooses or not. The danger then consists merely in this: the President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power, and the restraints that operate to prevent it? In the first place, he will be impeachable by this House, before the Senate, for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. But what can be his motives for displacing a worthy man? It must be that he may fill the place with an unworthy creature of his own. Can he accomplish this end? No; he can place no man in the vacancy whom the Senate shall not approve; and if he could fill the vacancy with the man he might choose, I am sure he would have little inducement to make an improper removal. Let us consider the consequences. The injured man will be supported by the popular opinion; the community will take side with him against the President; it will facilitate those combinations, and give success

to those exertions which will be pursued to prevent his re-election. To displace a man of high merit, and who from his station may be supposed a man of extensive influence, are considerations which will excite serious reflections beforehand in the mind of any man who may fill the Presidential chair. The friends of those individuals and the public sympathy will be against him. If this should not produce his impeachment before the Senate, it will amount to an impeachment before the community, who will have the power of punishment, by refusing to re-elect him. But suppose this persecuted individual cannot obtain revenge in this mode; there are other modes in which he could make the situation of the President very inconvenient, if you suppose him resolutely bent on executing the dictates of resentment. If he had not influence enough to direct the vengeance of the whole community, he may probably be able to obtain an appointment in one or the other branch of the Legislature; and being a man of weight, talents, and influence, in either case he may prove to the President troublesome indeed. We have seen examples in the history of other nations, which justifies the remark I now have made. Though the prerogatives of the British King are great as his rank, and it is unquestionably known that he has a positive influence over both branches of the legislative body, yet there have been examples in which the appointment and removal of ministers have been found to be dictated by one or other of those branches. Now if this be the case with an hereditary Monarch, possessed of those high prerogatives and furnished with so many means of influence; can we suppose a President, elected for four years only, dependent upon the popular voice, impeachable by the Legislature, little, if at all, distinguished for wealth, personal talents, or influence from the head of the department himself; I say, will he bid defiance to all these considerations, and wantonly dismiss a meritorious and virtuous officer? Such abuse of power exceeds my conception. If any thing takes place in the ordinary course of business of this kind, my imagination cannot extend to it on any rational principle. But let us not consider the question on one side only; there are dangers to be contemplated on the other. Vest this power in the Senate jointly with the President, and you abolish at once that great principle of unity and responsibility in the executive department, which was intended for the security of liberty and the public good. If the President should possess alone the power of removal from office, those who are employed in the execution of the law will be in their proper situation, and the chain of dependence be preserved; the lowest officers, the middle grade, and the highest, will depend, as they ought, on the President, and the President on the community. The chain of dependence therefore terminates in the supreme body, namely, in the people, who will possess, besides, in aid of their original power, the decisive engine of impeachment. Take the

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

other supposition; that the power should be vested in the Senate, on the principle that the power to displace is necessarily connected with the power to appoint. It is declared by the constitution, that we may by law vest the appointment of inferior officers in the heads of departments; the power of removal being incidental, as stated by some gentlemen. Where does this terminate? If you begin with the subordinate officers, they are dependent on their superior, he on the next superior, and he on whom? On the Senate, a permanent body, a body, by its particular mode of election, in reality existing forever; a body possessing that proportion of aristocratic power which the constitution no doubt thought wise to be established in the system, but which some have strongly excepted against. And let me ask gentlemen, is there equal security in this case as in the other? Shall we trust the Senate, responsible to individual Legislatures, rather than the person who is responsible to the whole community? It is true, the Senate do not hold their offices for life, like aristocracies recorded in the historic page; yet the fact is, they will not possess that responsibility for the exercise of Executive powers which would render it safe for to vest such powers in them. But what an aspect will this give to the Executive? Instead of keeping the departments of Government distinct, you make an Executive out of one branch of the Legislature; you make the Executive a two-headed monster, to use the expression of the gentleman from New Hampshire, (Mr. LIVERMORE,) you destroy the great principle of responsibility, and perhaps have the creature divided in its will, defeating the very purposes for which a unity in the Executive was instituted. These objections do not lie against such an arrangement as the bill establishes. I conceive that the President is sufficiently accountable to the community; and if this power is vested in him, it will be vested where its nature requires it should be vested; if any thing in its nature is executive, it must be that power which is employed in superintending and seeing that the laws are faithfully executed. The laws cannot be executed but by officers appointed for that purpose; therefore, those who are over such officers naturally possess the executive power. If any other doctrine be admitted, what is the consequence? You may set the Senate at the head of the executive department, or you may require that the officers hold their places during the pleasure of this branch of the Legislature, if you cannot go so far as to say we shall appoint them; and by this means, you link together two branches of the Government which the preservation of liberty requires to be constantly separated.

Another species of argument has been urged against this clause. It is said, that it is improper, or at least unnecessary, to come to any decision on this subject. It has been said by one gentleman, that it would be officious in this branch of the Legislature to expound the con-

stitution, so far as it relates to the division of power between the President and Senate; it is incontrovertibly of as much importance to this branch of the Government as to any other, that the constitution should be preserved entire. It is our duty, so far as it depends upon us, to take care that the powers of the constitution be preserved entire to every department of Government; the breach of the constitution in one point, will facilitate the breach in another; a breach in this point may destroy that equilibrium by which the House retains its consequence and share of power; therefore we are not chargeable with an officious interference. Besides, the bill, before it can have effect, must be submitted to both those branches who are particularly interested in it; the Senate may negative, or the President may object, if he thinks it unconstitutional.

But the great objection drawn from the source to which the last arguments would lead us is, that the Legislature itself has no right to expound the constitution; that wherever its meaning is doubtful, you must leave it to take its course, until the Judiciary is called upon to declare its meaning. I acknowledge, in the ordinary course of Government, that the exposition of the laws and constitution devolves upon the Judiciary. But, I beg to know, upon what principle it can be contended, that any one department draws from the constitution greater powers than another, in marking out the limits of the powers of the several departments? The constitution is the charter of the people to the Government; it specifies certain great powers as absolutely granted, and marks out the departments to exercise them. If the constitutional boundary of either be brought into question, I do not see that any one of these independent departments has more right than another to declare their sentiments on that point.

Perhaps this is an omitted case. There is not one Government on the face of the earth, so far as I recollect, there is not one in the United States, in which provision is made for a particular authority to determine the limits of the constitutional division of power between the branches of the Government. In all systems there are points which must be adjusted by the departments themselves, to which no one of them is competent. If it cannot be determined in this way, there is no resource left but the will of the community, to be collected in some mode to be provided by the constitution, or one dictated by the necessity of the case. It is therefore a fair question, whether this great point may not as well be decided, at least by the whole Legislature as by a part, by us as well as by the Executive or Judiciary? As I think it will be equally constitutional, I cannot imagine it will be less safe, that the exposition should issue from the legislative authority than any other; and the more so, because it involves in the decision the opinions of both those departments, whose powers are supposed to be

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

affected by it. Besides, I do not see in what way this question could come before the judges, to obtain a fair and solemn decision; but even if it were the case that it could, I should suppose, at least while the Government is not led by passion, disturbed by faction, or deceived by any discolored medium of sight, but while there is a desire in all to see and be guided by the benignant ray of truth, that the decision may be made with the most advantage by the Legislature itself.

My conclusion from these reflections is, that it will be constitutional to retain the clause; that it expresses the meaning of the constitution as must be established by fair construction, and a construction which, upon the whole, not only consists with liberty, but is more favorable to it than any one of the interpretations that have been proposed.

Mr. GERRY.—I am clearly of opinion with the gentleman last up, that it is of importance to decide this question on its true principles; and am free to declare, that I shall be as ready to oppose every innovation or encroachment on the rights of the Executive as upon those of the Legislature. I conceive myself bound to do this, not only by oath, but by an obligation equally strong—I mean the obligation of honor.

I wish, sir, to consider this question so far, as to ascertain whether it is, or is not, unconstitutional. I have listened with attention to the arguments which have been urged on both sides; and it does appear to me, that the clause is as inconsistent with the constitution as any set of words which could possibly be inserted in the bill.

There are two questions relative to this clause: The first, whether the sovereignty of the Union has delegated to the Government the power of removal? And the second, to whom? That they have delegated such power has been clearly proved by the gentlemen who advocate the clause; who justly say, if the power is not delegated, the clause in the constitution declaring the appointment of judges to be during good behavior would be nugatory, unless some branch of Government could otherwise have removed them from office. As to the second question, it depends upon the first; if the power is delegated, it must vest in some part of the Government. The gentlemen will agree, that this House has not the power of removal; they will also agree that it does not vest in the Judiciary; then it must vest in the President, or the President by and with the advice and consent of the Senate; in either of these cases, the clause is altogether useless and nugatory. It is useless if the power vests in the President; because, when the question comes before him, he will decide upon the provision made in the constitution, and not on what is contained in this clause. If the power vests in the President and Senate, the Senate will not consent to pass the bill with this clause in it; therefore the attempt is nugatory. But if the Senate will assent to the exercise of the power of removal by the President alone, when-

ever he thinks proper to use it so, then in that case the clause is, as I said before, both useless and nugatory.

The second question which I proposed to examine is, to whom the power of removal is committed. The gentlemen in favor of this clause have not shown that, if the construction that the power vests in the President and Senate is admitted, it will be an improper construction. I call on gentlemen to point out the impropriety, if they discover any. To me, it appears to preserve the unity of the several clauses of the constitution; while their construction produces a clashing of powers, and renders of none effect some powers the Senate by express grants possess. What becomes of their power of appointing, when the President can remove at discretion? Their power of judging is rendered vain by the President's dismissal; for the power of judging implies the power of dismissing, which will be totally insignificant in its operation, if the President can immediately dismiss an officer whom they have judged and declared innocent.

It is said, that the President will be subject to an impeachment for dismissing a good man. This in my mind involves an absurdity. How can the House impeach the President for doing an act which the Legislature has submitted to his discretion?

But what consequence may result from giving the President the absolute control over all officers? Among the rest, I presume he is to have an unlimited control over the officers of the Treasury. I think if this is the case, you may as well give him at once the appropriation of the revenue; for of what use is it to make laws on this head, when the President, by looking at the officer, can make it his interest to break him? We may expect to see institutions arising under the control of the revenue, and not of the law.

Little then will it answer, to say we can impeach the President, when he can easily cover all his crimes by an application of the revenue to those who are to try him. This application would certainly be made in case of a corrupt President; and it is against corruption in him that we must endeavor to guard; not that we fear any thing from the virtuous character who now fills the Executive chair; he is perhaps to be safer trusted with such a power than any man on earth; but it is to secure us against those who may hereafter obtrude themselves into power.

But if we give the President the power to remove, (though I contend if the constitution has not given it him, there is no power on earth that can except the people, by an alteration of the constitution, though I will suppose it for argument's sake,) you virtually give him a considerable power over the appointment, independent of the Senate; for if the Senate should reject his first nomination, which will probably be his favorite, he must continue to nominate until the Senate concur; then immediately after the re-

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. of R.]

cess of the Senate, he may remove the officer, and introduce his own creature, as he has this power expressly by the constitution. The influence created by this circumstance, would prevent his removal from an office which he held by a temporary appointment from his patron.

This has been supposed by some gentlemen to be an omitted case, and that Congress have the power of supplying the defect. Let gentlemen consider the ground on which they tread. If it is an omitted case, an attempt in the Legislature to supply the defect, will be in fact an attempt to amend the constitution. But this can only be done in the way pointed out by the fifth article of that instrument, and an attempt to amend it in any other way may be a high crime or misdemeanor, or perhaps something worse. From this view of our situation, gentlemen may perhaps be led to consent to strike out the clause.

In Great Britain there are three estates, King, Lords, and Commons; neither of these can be represented by the other, but they conjointly can form constructions upon the rights of the people which have been obtained sword in hand from the crown. These, with the legislative acts, form the British constitution; and if there is an omitted case, Parliament has a right to make provision for it. But this is not the case in America, consisting of a single estate. The people have expressly granted certain powers to Congress, and they alone had the right to form the constitution; in doing so, they directed a particular mode of making amendments, which we are not at liberty to depart from.

The system, it cannot be denied, is in many parts obscure; if Congress are to explain and declare what it shall be, they certainly will have it in their power to make it what they please. It has been a strong objection to the constitution, that it was remarkably obscure; nay, some have gone so far as to assert that it was studiously obscure, that it might be applied to every purpose by Congress. By this very act the House are assuming a power to alter the constitution. The people of America can never be safe, if Congress have a right to exercise the power of giving constructions to the constitution different from the original instrument. Such a power would render the most important clause in the constitution nugatory, and one without which, I will be bold to say, this system of Government would never have been ratified. If the people were to find that Congress meant to alter it in this way, they would revolt at the idea; it would be repugnant to the principles of the revolution, and to the feelings of every freeman in the United States.

It is said, that the power to advise the President in appointing officers, is an exception to a general rule. To what general rule? That the President, being an executive officer, has the right of appointing. From whence is this general rule drawn? Not from the constitution, nor from custom, because the State Governments are generally against it. Before the gentleman had

reasoned from this general rule, he ought to have demonstrated that it was one; he ought to have shown that the President, *ex officio*, had the power to appoint and remove from office; that it was necessarily vested in the Executive branch of the Government.

It is said to be the duty of the President to see the laws faithfully executed, and he could not discharge this trust without the power of removal. I ask the gentleman, if the power of suspension, which we are willing to give, is not sufficient for that purpose? In case the Senate should not be sitting, the officer could be suspended, and at their next session the causes which require his removal might be inquired into.

It is said to be incumbent on us to keep the departments distinct. I agree to this; but then, I ask, what department is the Senate of, when it exercises its power of appointment or removal? If legislative, it shows that the power of appointment is not an executive power; but if it exercises the power as an executive branch of Government, there is no mixing of the departments; and therefore the gentleman's objections fall to the ground.

The dangers which lie against investing this power jointly in the Senate and President have been pointed out; but I think them more than counterbalanced by the dangers arising from investing it in the President alone. It was said, that the community would take part with the injured officer against the President, and prevent his re-election. I admit that the injured officer may be a man of influence and talents, yet it is fifty to one against him, when he is opposed by such a powerful antagonist. It is said, that if the Senate should have this power, the Government would contain a two-headed monster; but it appears to me, that if it consists in blending the power of making treaties and appointing officers, as executive powers, with their legislative powers, the Senate is already a two-headed monster; if it is a two-headed monster, let us preserve it a consistent one; for surely it will be a very inconsistent monster, while it has the power of appointing, if you deprive it of the power of removing. It was said, that the judges could not have the power of deciding on this subject, because the constitution is silent; but I ask, if the judges are not *ex officio* judges of the law; and whether they would not be bound to declare the law a nullity, if this clause is continued in it, and is inconsistent with the constitution? There is a clause in this system of government that makes it their duty. I allude to that which authorizes the President to obtain the opinions of the heads of departments in writing; so the President and Senate may require the opinion of the judges respecting this power, if they have any doubts concerning it.

View the matter in any point of light, and it is utterly impossible to admit this clause. It is both useless and unnecessary; it is inconsistent with the constitution, and is an officious interference of the House in a business which

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

does not properly come before them. We expose ourselves to most dangerous innovations by future Legislatures, which may finally overturn the constitution itself.

Mr. BENSON.—The question has been stated as respecting a construction of the constitution; and it has been asked, how this meaning is to be determined? I suppose a legislative construction is to be admitted, as I conceive there must be given, generally, to the Government, the power of removal at pleasure; because it cannot be rationally intended that all offices should be held during good behavior, because the constitution has declared one office to be held by this tenure. If, then, the constitution intends that all other offices shall be held during will and pleasure, the question will be, during whose will and pleasure? If we declare in the bill that the officer shall be removable by the President, it has the appearance of conferring the power upon him. Now, I think this improper; because it would be admitting the House to be possessed of an authority which would destroy those checks and balances which are cautiously introduced into the constitution, to prevent an amalgamation of the legislative and executive powers. For this reason, I shall take the liberty of submitting an alteration, or change in the manner of expression, that so the law may be nothing more than a declaration of our sentiments upon the meaning of a constitutional grant of power to the President. Can the gentleman be serious who tells us, that this is a case to be proposed as an amendment to the constitution? Does he suppose, whenever a doubt arises in this House, (and it will be a doubt if an individual doubts,) with respect to the meaning of any part of the constitution, we must take that mode? Or does he really suppose that we are never to take any part of the constitution by construction? This I conceive to be altogether inadmissible; for it is not in the compass of human wisdom to frame a system of Government so minutely, but that a construction will, in some cases, be necessary. This is such a case; and we ought most assuredly to declare our sentiments on the occasion.

I will not repeat what has been said, to prove that the true construction is, that the President alone has the power of removal; but will state a case to show the embarrassment which must arise by a combination of the senatorial and legislative authority in this particular. I will instance the officer to which the bill relates. To him will necessarily be committed negotiations with the ministers of foreign courts. This is a very delicate trust. The supreme Executive officer, in superintending this department, may be entangled with suspicions of a very delicate nature, relative to the transactions of the officer, and such as from circumstances would be injurious to name; indeed, he may be so situated that he will not, cannot give the evidence of his suspicion. Now, thus circumstanced, suppose he should propose

to the Senate to remove the Secretary of Foreign Affairs; are we to expect the Senate will, without any reason being assigned, implicitly submit to his proposition? They will not. Suppose he should say, he suspected the man's fidelity; they would say we must proceed further, and know the reason for this suspicion; they would insist on a full communication. Is it to be supposed that this man will not have a single friend in the Senate who will contend for a fair trial and a full hearing? The President then becomes the plaintiff, and the Secretary the defendant. The Senate are sitting in judgment between the Chief Magistrate of the United States and a subordinate officer. Now, I submit to the candor of the gentlemen, whether this looks like good government? Yet in every instance when the President thinks proper to have an officer removed, this absurd scene must be displayed. How much better, even on principles of expediency, will it be that the President alone have the power of removal.

It has been warmly contended, that the power of removal is incidental to the power of appointment. It may be true in general; but, upon examination, we shall find there is a distinction in this case from what the general principle supposes. If the President and Senate are to be considered as one body, deliberating together on the business of appointments, every individual of which participates equal powers, the reasoning that has been urged will hold good. But I take it for granted that they are two distinct bodies, and can only give a simple affirmative or negative. No member of the Senate has power to offer an original proposition. In short, the moment we depart from this simple idea, that the provision in the constitution is intended for any other purpose but to prevent the President from introducing improper persons into office, we shall find it difficult to form any certain principle upon which they ought to act; and our opinions and deliberations will be discordant and distracted.

Gentlemen ask, will not the power of suspending an officer be sufficient to prevent misconduct? Here is some inconsistency in their arguments. They declare, that Congress have no right to construe the constitution in favor of the President, with respect to removal; yet they propose to give a construction in favor of the power of suspension being exercised by him. Surely gentlemen do not pretend that the President has the power of suspension granted expressly by the constitution; if they do, they have been more successful in their researches into that instrument than I have been. If they are willing to allow a power of suspending, it must be because they construe some part of the constitution in favor of such a grant. The construction in this case must be equally unwarrantable. But admitting it proper to grant this power what then? When an officer is suspended, does the place become vacant? May the President proceed to fill it up? Or

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

must the public business be likewise suspended? When we say an officer is suspended, it implies that the place is not vacant; but the parties may be heard, and, after the officer is freed from the objections that have been taken to his conduct, he may proceed to execute the duties attached to him. What would be the consequence of this? If the Senate, upon its meeting, were to acquit the officer, and replace him in his station, the President would then have a man forced on him whom he considered as unfaithful; and could not, consistent with his duty, and a proper regard to the general welfare, go so far as to entrust him with full communications relative to the business of his department. Without a confidence in the Executive Department, its operations would be subject to perpetual discord, and the administration of the Government become impracticable.

But, suppose the Senate to be joined with the President in the exercise of the power of removal, what mode will they proceed in? Shall the President always propose the removal, or shall the Senate undertake this part of the business? If so, how are they to act? There is no part of the constitution which obliges the President to meet them, to state his reasons for any measure he may recommend. Are they to wait upon the President? In short, it appears to me, that introducing this clashing of the powers which the constitution has given to the Executive, will be destructive of the great end of Government. So far will restraining the powers of that department be from producing security to the liberties of the people, that they would inevitably be swallowed up by an aristocratic body.

The amendment which I propose will be to this effect, (it will have to come in some other part of the bill:) that "whenever the said officer shall be removed by the President," and strike out the words "to be removable by the President."

MR. SMITH, (of South Carolina).—The gentlemen, by their arguments in favor of this clause, show us what ought to be, rather than what is, in the constitution; but I do not think this the ground on which this question should be contended. I think, if the power be not found in the constitution, we ought not to grant it.

I am sorry to take up the time of this committee at this late hour of the day; but I cannot deny myself the privilege of replying to some of the arguments which have been urged in opposition to those I have advanced. I mean to do this in as summary a manner as I possibly can. It has been inferred from the clause in the constitution, declaring the judges to hold their offices during good behavior, that there are no other officers who hold their offices by this tenure. Now, I apprehend, that this clause was inserted to distinguish them from other officers who hold their offices for a limited period: for example, the House of Representatives for two years, the Senate for six, the President and Vice President for four; and,

in order to prevent the Legislature from declaring that they should be elected during a limited period. It was seen to be proper to have them independent; and that could only be secured by such a declaration in the constitution. It would be improper that they should depend on this House for the degree of permanency which is essential to secure the integrity of judges. With respect to the other offices to be established by law, there is nothing to prevent us from limiting their appointment to two or three years. Let us then limit the duration of Secretary of Foreign Affairs for as short a period as is thought to be salutary. Here we are not restricted. But I conceive, as the constitution now stands, they cannot be removed in any other way but by impeachment.

Another gentleman, in his arguments, has declared as his opinion, that, in fact, the President has the power of appointment; and infers from that, upon the general principle that those who appoint may remove, that the President has the power of removal also. But it appears extraordinary, that the gentlemen who have urged the great security arising from an appointment from the President and Senate, should now contend that the President alone has that power; if this be true, where is that boasted security?

It has been said also, that the same reason which applies against giving this power to the President, applies against vesting it in the Senate; but I do not think they apply with equal force. On this point, I need only refer gentlemen to the authority I quoted before. *Publius* shows clearly the superior advantage of having the President and Senate combined in the exercise of this power.

It is contended that the Legislature have the power of supplying the defect, if this is an omitted case. I cannot be of that opinion. But it is unnecessary to extend this argument, after what has been urged by the gentleman from Massachusetts, (MR. GERRY.) If the Legislature can supply defects, they may virtually repeal the constitution.

Gentlemen say we ought not to suppose such an abuse of power in the President. But the constitution wisely guards against his caprice in the appointment; and why should we abate the security in cases of removal? The constitution contemplates infirmity in the Chief Magistrate; makes him removable by impeachment; and provides the Vice President to exercise the office, upon such a contingency taking place. But it is supposed that the President may be impeached for an abuse of this power. How can that event take place? He will tell you he thought it incumbent on him to displace the officer, because he apprehended the public tranquillity was in danger; and if he erred, it was the error of the head, not of the heart. And will any House of Representatives ever be found to impeach the Chief Magistrate of the United States for an error in opinion?

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 17, 1789.]

It was observed, that it would be inconvenient, as the Senate were not always in session. The same objection lies against associating the Senate with the President in making treaties. If this is an inconvenience, it is imposed upon us by the constitution, and must be submitted to. If he finds the advice of the Senate necessary in either case, he must convene them to obtain their assistance; they are neither of them likely to happen frequently; the inferior officers may be regulated by law, leaving the heads of departments only subject to the operation of this power.

The gentleman from Connecticut, (Mr. SHERMAN,) seemed to think this officer might be considered as an inferior officer, and therefore subject to legislative directions respecting his appointment and removal; because the President is the executive head of the department, and this officer is only to aid the President. Some gentlemen have spoken of a two-headed monster in the Government; but I think, in this view, we shall find the Executive a three-headed monster, a real Cerberus. The resolution upon which this bill is founded comprised three heads of departments; if these are appendages to the Executive, what kind of a monster do you form? And yet your constitution admits these officers to be heads of departments.

It has been said, that the Legislature may give their opinion on the constitution. I agree with gentlemen if they mean that, as an individual, we may give our single opinion; but I never can admit it to be right in our legislative capacity to influence the judges, and throw our weight into either scale to warp their decision. I think it highly criminal to attempt to bias their judgment in any way.

It was said, that there was more danger in continuing a bad man in office than in displacing a good one; and that the constitution seemed to suppose this, by giving the House of Representatives the power of removal. I grant there is more danger in one case than in the other; but I am afraid the President will have it in his power to continue a bad man in office, and this part of the argument I believe has not yet been touched upon; I shall, however, be concise in my observations. It is declared in the constitution, that judgments, in cases of impeachment, may extend to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States. Suppose it in contemplation to remove some creature of the President's by means of impeachment, in order to dismiss him from all his employments, and to prevent his ever thereafter disseminating poison through the councils of his country. If the impeachment is permitted to succeed, the poison is removed, and the nation is rid of him. But suppose the President snatches him from his fate, by interposing his authority, saying, you complain of the man, I will save you the trouble of proceeding by that circuitous route of

impeachment; I will remove him without delay. By this collusion, the wretch's fame is in some measure preserved; and when the President has waited till the storm of obloquy has ceased to blow, and the public mind has returned to a tranquil state, he obtrudes the man again into office, when, in fact, he ought ever to be disqualified from participating in any thing honorable or profitable which the Government has to bestow. Thus, then, may be accomplished the evil which is most to be dreaded, and which the honorable gentleman from Virginia (Mr. MADISON) says the constitution meant to guard against, by giving the House of Representatives the power of trying impeachments.

An honorable gentleman has said, he did not see how this case could be brought before a court of justice in order to obtain their decision. That gentleman is no stranger to a just and venerable law maxim. Wherever a man has a right, he has a remedy; if he suffers a wrong, he can have a redress; he would be entitled to damages for being deprived of his property in his office.

One of the greatest arguments brought forward on this occasion is, that this authority is implied in the grant of executive authority which is made in the constitution; the executive power shall be vested in the President. This I apprehend proves too much, and therefore proves nothing; because it implies that powers which are expressly given by the constitution, would have been in the President without the express grant. I ask the gentleman, if the constitution had been silent with respect to his exercising the power of granting reprieves and pardons, whether the President would have that authority? I apprehend it is in some degree an executive power. It is exercised by some of the Executives even in the United States; but there have been great doubts about the exercise of it in others. It has been said, in some of them, that as this constitution did not give it, the Governor has no right to it; and this they prove by the constitutions of other States, in which an express grant is made. For instance, the constitution of Massachusetts declares that the Governor shall have the power to grant reprieves, &c.; but if it had not been given him, he would not have had it. If the convention who framed the constitution meant that he should have the power of removal, the propriety of inserting it must have occurred to them, where it is said he should have power to see the laws faithfully executed, and he should commission all officers; there are other places in which it would well come in. As it must have occurred to them, and they have omitted it, I take it for granted they never intended to give it to him.

I apprehend, if he saw an officer misbehaving, he would transmit the necessary information to us, and leave us to determine whether the person should be impeached or not; and the business could, in my judgment, be satisfactorily accomplished in this way. From all these reasons, there will be no doubt but the constitu-

JUNE 17, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

tion does not give the power; that the Legislature ought not to supply its defects; and that even if it were a matter of doubt, we ought by no means to interfere in adjusting or determining it. Therefore, in whatever point of view you consider it, the clause ought not to stand as part of the bill.

MR. VINING.—I am extremely solicitous, Mr. Chairman, that this clause should stand as part of the bill; and therefore must beg to add a few words more in its support. I take this power to be necessary, sir, to the execution of your Government. In vain do we contemplate the wisdom of a Legislative branch, in vain do we expect the energy of the Executive arm, and in vain will be the integrity and independence of the Judiciary, if one department after another is to be stripped of its budding powers. The branches will not expand their umbrageous and salutary verdure to shelter our sons from the tempest of calamity, nor delight them with the fair fruits of good government, for which they are in anxious expectation. I have listened, sir, with some degree of avidity to the arguments offered on this subject. I find the point of expediency and responsibility is acceded to, and the question now turns upon the constitutionality of the measure. Here, sir, I agree with gentlemen, it does turn on the construction of the constitution; and to my mind, the construction which we give is irresistibly true. Does the constitution say such a construction shall be given? I ask gentlemen, does the constitution, does reason, does experience, does any one principle upon which good government depends, deny our construction? I believe not one of them.

What kind of a monster this will be, I do not pretend to say; whether it will have two heads, three heads, or four heads, as gentlemen contend; but I will be bold to say it is a monster of a peculiar enormity; for gentlemen are putting the heads where the tails should be, or rather making it without any head at all. If we do not permit the President to exercise this power, surely this will be the most unreasonable thing in nature.

The argument of convenience is strong in favor of the President; for this man is an arm or an eye to him: he sees and writes his secret despatches, he is an instrument over which the President ought to have a complete command. I hope gentlemen, who request us not to be dazzled with the splendor of the President, will not themselves be misled by the brightness of senatorial dignity, and suffer officers to skulk out of the President's enfeebled reach within the effulgency of their lustre, which is most likely to lay the foundation of universal empire over the liberties of the people. If the President removes a valuable officer, which seems to be the great danger the gentleman from South Carolina (MR. SMITH) apprehends, it would be an act of tyranny which the good sense of the nation would never forget; but if the Senate turns out a good man, they might be re-elected by the State Legislatures. But the Senate may

remove a good officer without feeling any injury; they are not feelingly sensible of the advantages arising from his labors, because they do not act in concert with him; while the President, by such a removal, deprives himself of a valuable and necessary aid. When a good officer is obtained, the President has every motive of justice, self-interest, and public good, to retain him in his situation. None of these motives operate, or but faintly operate, upon the Senate.

Does the constitution any where say the President shall not have the power? It does not. But the principles of the constitution declare that the legislative and executive departments shall be kept distinct. An express declaration of this kind is sought for as an amendment to the constitution; and would gentlemen be so weak as to confound them in the first operation of the Government?

It has been asked, if the same properties are not requisite in removing a man from office as to appoint him? I apprehend a difference in the degree of information necessary. A man's ability may be known to many persons, they may entertain even a good opinion of his integrity; but no man, without a superintending power, can bring this fidelity to the test. The President will have every opportunity to discover the real talents and honesty of the officer; the Senate will have none but from common fame. How then are their properties equal?

The Departments of Foreign Affairs and War are peculiarly within the powers of the President, and he must be responsible for them; but take away his controlling power, and upon what principle do you require his responsibility?

The gentlemen say the President may suspend. They were asked if the constitution gave him this power any more than it gave him the power of removing. Do they contend the one to be a more inherent power than the other? If they do not, why shall it be objected to us that we are making a legislative construction of the constitution, when they are contending for the same thing?

I look upon it as begging the question, to say the power that appoints must likewise remove. The position ought to be proved. For my part, I think where the responsibility is, and where the power of overseeing and controlling resides, that there also must be the power of removal.

If the constitution does not prohibit the exercise of this power, I conceive it to be granted, either as incidental to the executive department, or under that clause which gives to Congress all powers necessary and proper to carry the constitution into effect. This being the case, we are at liberty to construe, from the principles and expressions of the constitution, where this power resides. This, I trust, is what we are about to do; and after the full discussion which the subject has had, I flatter myself we shall do it with a degree of unanimity, which I most ardently wish.

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

On motion, the committee then rose, and the Speaker resumed the chair.

THURSDAY, June 18.

The petition of Robert Frazier, late a soldier in the continental army, was presented, praying that compensation may be made him for military services rendered during the late war.

Ordered to lie on the table.

A message from the Senate informed the House that they had passed the bill imposing duties on tonnage, with several amendments, to which they desired the concurrence of this House.

DEPARTMENT OF FOREIGN AFFAIRS.

The House then again went into a Committee of the whole on the bill for establishing the Department of Foreign Affairs, Mr. TRUMBULL in the chair. The clause "to be removable by the President," being still under consideration.

Mr. WHITE.—This question, complicated in its nature, and interesting in its consequences, has occasioned a serious and solemn debate; although some gentlemen have thought it so clear in its nature, and trivial in its consequences, as to excite in them surprise at its being brought a second time under the consideration of the House. For my own part, I consider it as the most important question that has yet come before the Legislature of the Union; I am sure it is the most important question I ever had a voice in discussing, or a vote in determining, except that of adopting the constitution itself in the convention of Virginia. I consider the day on which the sense of the House is to be taken on this subject as a memorable day in the annals of America. I do not consider the question is simply whether the power of removing the great officers of the Government shall be vested in the President, or the President and Senate? The constitution has determined that point. I do not consider it a question before us to determine, whether offices are to be held during good behavior, or during the pleasure of those who appoint them? I suppose, on a fair and necessary construction of the constitution, that matter is also settled. All these arguments, therefore, tending to show that the one or other mode of appointment or removal is proper or improper, or that they ought to be despatched by impeachment, are inapplicable to the present case; but the respectability of the characters who support these arguments entitle them to some respect. But I shall pass over them, and proceed to inquire, whether we may grant to others, or assume to ourselves, powers which the constitution has not given, either in express terms, or by necessary implication. This I conceive to be the true question; and it is a question of the importance which has been stated.

It is not contended, that the power which this bill proposes to vest is given to the President in express terms by the constitution; or that it

can be inferred from any particular clause in that instrument. It is sought for from another source, the general nature of executive power. It is on this principle the clause is advocated, or I mistake the arguments urged by my colleague, (Mr. MADISON.) It was said by that gentleman, that the constitution having invested the President with a general executive power, thereby all those powers were vested which were not expressly excepted; and therefore he possessed the power of removal. This is a doctrine not to be learned in American Governments; is no part of the constitution of the Union. Each State has an Executive Magistrate; but look at his powers, and I believe it will not be found that he has in any one, of necessity, the right of appointing or removing officers. In Virginia, I know, all the great officers are appointed by the General Assembly. Few, if any, of a subordinate nature are appointed by the Governor, without some modification. The case is generally the same in the other States. If the doctrine of the gentleman is to be supported by examples, it must be by those brought from beyond the Atlantic; we must also look there for rules to circumscribe the latitude of this principle, if indeed it can be limited. Upon the principle by which the executive powers are expounded, must the legislative be determined. Hence we are to infer, that Congress have all legislative powers not expressly excepted in the constitution. If this is the case, and the President is invested with all executive powers not excepted, I do not know that there can be a more arbitrary Government. The President will have the powers of the most absolute Monarch, and the Legislature all the powers of the most sovereign Legislature, except in those particular instances in which the constitution has defined their limits. This I take to be a clear and necessary deduction from the principle on which the clause in the bill is founded. I will mention the exceptions, and then let gentlemen form their opinion of the Government, if it is thus constituted. The President is limited in the appointment of ambassadors, consuls, judges, and all other officers, and in making treaties, but no further. Take from him these, and give him all other powers exercised by Monarchs, and see what they will be. There are also exceptions to the legislative power; such as, they shall not for a certain period prohibit the importation of slaves; that direct taxes shall be apportioned in a particular manner; that duties, imposts, and excises shall be uniform; that they shall grant no titles of nobility, no bill of attainder; no *ex post facto* law shall be passed; no preference in commerce to be given; no money to be drawn but by law. These are the exceptions to the legislative powers. Now give them all the powers which the Parliament of Great Britain have, and what kind of a Government is yours? I cannot describe it. It appears to me as absolute and extensive as any despotism. Then we must adhere to the limits described in the constitution.

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

tion. If we advance one step beyond its boundaries, where are we to draw the line to circumscribe our powers, or secure the liberties of our fellow-citizens?

I understand our system as differing in form and spirit from all other Governments in the world. It is in part national, and in part federal; and though it is more extensive in its powers than most other Governments, yet the Congress is not to be compared to National Legislatures; to these general powers are granted, with or without particular reservations in favor of the rights of the people; to these the gentlemen's arguments will apply, but to no other. Here is no analogy. This is a Government constituted for particular purposes only; and the powers granted to carry it into effect are specifically enumerated, and disposed among the various branches. If these powers are insufficient, or if they are improperly distributed, it is not our fault, nor within our power to remedy. The people who bestowed them must grant further powers, organize those already granted in a more perfect manner, or suffer from the defect. We can neither enlarge nor modify them.

This was the ground on which the friends of Government supported the constitution. It was a safe ground; and I venture to say it could not have been supported on any other. If this principle had not been successfully maintained by its advocates in the convention of the State from which I came, the constitution would never have been ratified. I do not mean to retail the solemn debates which took place upon this point, or the popular harangues intended to defeat its adoption. I will only quote the ratification by the State of Virginia, in which you will discover, in strong terms, the sense of the federal party on this subject; I say the federal party, because they drew it up without the interference of any other, though it was a clause agreeable to both sides of the House. [The part of the ratification alluded to was a clause proposed as an amendment to the constitution, to reserve to the States individually the powers not delegated by the constitution, nor prohibited by it, to the States.]

How far the establishment of the principle which I oppose may tend to the completion of the Union, I will not undertake to say. I will only remark, that the State of North Carolina has expressed nearly the same sense as Virginia, with this difference only, that she would not adopt the constitution until she was satisfied of the establishment of this great principle, that we should not, by constructive acts, enlarge our powers, in order, at a future day, to swallow up the State Governments, and with them the liberties of the people. And Virginia took, in my opinion, the more prudent course; she adopted the constitution under a firm belief that this security would be obtained.

I would suggest to gentlemen the local situation of that State. It is contiguous to Kentucky; and, united with it, forms a territory of amaz-

ing extent, from the Atlantic shores to the banks of the Ohio. The people of this tract are in such a situation that a single spark from this House would kindle a flame which it would be difficult, if not impossible, to extinguish, and excite such a dread as would render them utterly irreconcilable to our Government.

This is not a vain fear or apprehension. The opposers of the constitution formed their arguments upon it. They contended that the constitution was defective, that you would go beyond it and make constructions in your favor, and assume powers which the people never intended to grant. My apprehensions, therefore, are not mere chimeras of my own invention; I hope they are ill founded, and may be contradicted by the event.

The measure proposed, I acknowledge, is advocated by respectable and known friends of the Union within these doors, and by many without. But I believe much of this arises from the clause in question conferring the power on a man whom all the world admires, and whom they know will never abuse it. But on this occasion I would forget who is President; yet I would not forget that the worst of precedents are often established in the best of times. We may give a power to a particular man in office, because he will not abuse it; but we cannot take it away from his successor, who may be disposed to make an ill use of it. I do not mean to infer from this, that if the constitution had invested the power in the President, it would be dangerous or improper that he should have it. I do not determine this question, or give an opinion upon it; because it is unnecessary to decide it; the true question before us being simply a constitutional one.

Without entering into the evils which may arise, as gentlemen on both sides of the House have done, let us consider whether greater evils will not arise from our explaining the constitution at this time; if such events as I have apprehended should arise from our attempt to exercise an unconstitutional authority, it would more than counterbalance any possible good that can result from our decision within a moderate period of time. But is there any necessity for the measure? If the constitution has given this power to the President, which some gentlemen suppose, cannot he exercise it without our passing an act on the subject? If the constitution has not given it to him, shall we go beyond the limits that are set us in order to extend it to him? I hope not. But it seems a difficult point to determine whether he has or has not this power by the constitution, because some gentlemen contend he has, others that he has not. Why need we be concerned to determine this point? It will be better to leave the construction to himself; if it should become necessary to exercise this authority, let him consider his powers. I will venture to say, the occasion for the exercise of it will be a better comment on the constitution than any we can give; it will better explain it to the people, and more per-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

fectly reconcile it to them than any law from the Legislature.

It would be better for the President to extend his powers on some extraordinary occasions, even where he is not strictly justified by the constitution, than the Legislature should grant an improper power to be exercised at all times. I believe there is not an Executive power but which goes sometimes beyond the strict letter of the law. But a partial evil is easier sustained than a general one. I will relate an example. In Virginia, when the operations of the war required the exertions of the Chief Magistrate beyond the authority of the law, our late Governor, Nelson, whose name must be dear to every friend to liberty, was obliged to issue his warrants, and impress supplies for the army, though it was well known he exceeded his authority. His warrants were executed, his country was benefited by this resolute measure, and he himself afterwards indemnified by the Legislature. This corresponds with the practice under every limited Government. And although I do not wish to encourage acts of this kind, I say it would be better for the Executive to assume the exercise of such a power on extraordinary occasions, than for us to delegate to him authority to exercise an extraordinary power on all occasions.

Some gentlemen have supposed that the constitution has made no provision for the removal of officers; and they have called it an omitted case, or defect. They ask if we may not supply that defect? I say, in general, we may not; for if we can assume the right of supplying defects and making alterations, we may go on and make the constitution just what we please. But as a further answer, I say it is not an omitted case; for the constitution having directed by whom officers shall be appointed, it does direct also by whom they shall be removed. But that doctrine was so well supported yesterday by the gentleman from Maryland, (Mr. STONE,) that I need not add any thing on that head, and I will not trouble the committee with repetitions. This must have been in the contemplation of the gentlemen who formed the constitution. Is it probable they never thought about the manner in which an officer should be displaced, when they provided so many regulations relative to it? When they directed that the judges should hold their offices during good behavior, did they not intend all others should be held during pleasure? So far then from being an omitted case, I contend it is fully provided for by fair construction of the constitution. I mean, before I sit down, to say something on construction in general, which will throw light on this sentiment.

Gentlemen have supposed that the President may suspend; and that as he has a right to make a temporary appointment, he has also a right to make a temporary removal: I think he has, so far as it corresponds with his power of appointment.

It has been said, if the concurrence of the Senate be necessary, they may refuse to concur

when a removal is proper. If we are to suppose that the Government cannot be executed in its present form, there is no remedy for such a misfortune. But we are not to suppose it; we are to presume the Senate will do their duty. You may go on without end in supposing. You may suppose the President may not do what is right; you may even suppose this House may not do what is right; what is the consequence? Why, our constituents must bear with us till they have an opportunity of applying a remedy. But shall we, because the Senate may do wrong, give the President the power to act without them? Is it contended that the President has any superior agency in this business because he nominates? We may as well contend, on the same principle, that because this House has the exclusive power of originating money bills, we may repeal a law of that nature without the consent of the Senate. It has been asked, whether a person in the elevated station of the President would abuse his trust? I do not presume he will, but I presume he may: to prevent such evils, the constitution has wisely guarded the exercise of every power. But I would ask, is there more danger of the Senate's abusing their trust than the President his?

A gentleman (Mr. SHERMAN) has recurred to that part of the constitution which says, that Congress may, by law, vest the appointment of such inferior officers as they may think proper, in the President alone, in the courts of law, or in the heads of departments; and infers from hence, that the President is to consider himself as the head of all these departments. These arguments come from a gentleman whom I always hear with pleasure, on account of his sound reasoning and perspicuity of expression; but, in this case, I differ from him widely. Who are the heads of departments? We are to have a Secretary for Foreign Affairs, another for War, and another for the Treasury; now, are not these the principal officers in those departments? They are denominated such in the bills, and in the former resolution of the House; if they are, they are the heads of those departments. But who are the inferior officers? The chief clerks, and all others who may depend upon them. These, then, are the inferior officers, whose appointments may be vested in the respective heads of departments. I would beg just to observe here, that the gentlemen who formed the constitution seem not inclined, at all events, to give to the President the power of appointing even these inferior officers, to which is attached the power of removal.

When I set out, I said that the constitution marks the precise limits to the deliberations of Congress, and also something with respect to construction; it may, at first view, appear somewhat inconsistent. I promised to explain on this head. I say, sir, that whatever is granted in general terms, that which is in its own nature attached to it, and necessary to render that grant of effect, must also go with it, without particular explanation. Without this prin-

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

ciple Congress could not execute the system of Government. To elucidate this point, you will observe, that the constitution vests in the Government the power of appointing supreme and inferior judges. By natural and necessary construction, therefore, the Legislature may say how many judges there shall be, how often, and where they may hold their terms, and what their salaries shall be. These are natural and safe constructions; but constructions of every other kind are beyond the limits of the constitution.

I should not have troubled the committee so long; but on a matter of so much importance, one that lies so heavily on my mind, and for which I am so anxiously concerned, I could not avoid expressing my sentiments fully. I am strongly impressed with the idea, that giving powers which are not within the letter of the constitution, will be to the people a circumstance of alarm and terror. I would wish to avoid exciting apprehensions, and therefore leave the power to the discretion of the Chief Magistrate; let him exercise it, if he judges it necessary, on any occasion; and that circumstance may reconcile the people to it. This brings to my mind an observation made on legislative construction. I imagine the Legislature may construe the constitution with respect to the powers annexed to their department, but subject to the decision of the judges. The same with regard to the Executive: the President and Senate may construe the power in question, and as they determine respecting the mode of removal, so they may act, but liable also to the decision of the Judiciary.

Mr. PAGE.—I cannot acquit myself of the duty I owe to my constituents and my own feelings, to pass this subject with a silent vote. I recollect when this argument was first brought forward, that great stress was laid upon increasing the President's responsibility. I think it had more weight with some gentlemen than it deserved; for, instead of increasing his responsibility, I think it diminishes it—because I hold it an incontrovertible maxim, that the more power you give him, the more his responsibility is lessened. By making the heads of all the departments dependent upon the President, you enable him to swallow up all the powers of Government; you increase his influence, and every one will be studious to please him alone. This was never the intention of the constitution, or he would have the sole power of appointing. The framers of the Government had confidence in the Senate, or they would not have combined them with the Executive in the performance of his duties. The constitution also has confidence in the heads of departments: the President is directed to have their advice relative to the particular duties of their stations. Now, what necessity, let me ask gentlemen, was there for a constitutional provision to enable the President to obtain their advice if it was understood that all such officers were to be the mere creatures of the President, depen-

dent upon his will alone? Would not such a situation compel them to do every thing he directed?

The clause in the constitution which provides that all civil officers of the United States shall be removed from office on impeachment for, and conviction of, high crimes and misdemeanors, plainly includes all officers and offences which it is in contemplation to make the President sole judge of. I ask gentlemen, then, if the clause in the bill is not subversive of the right which the Senate holds under this clause of the constitution?

I would caution those gentlemen who are so fond of energy in their Government, that they do not go too far, and lay the foundation of a future despotism. By this grant of power you secure the President against impeachment; you fence him round with a set of dependent officers, through whom alone it is probable you could come at the evidence of the President's guilt, in order to obtain his conviction on impeachment.

It has been said, if we strike out the words in the bill, we shall leave this power to the Senate. I contend, Mr. Chairman, that it is safer to leave it to the President and Senate than to the President alone; but I do not conceive that we decide the question, by any means; when we strike out the clause, we leave it only where we found it.

Some gentlemen contend that the Senate are a dangerous and aristocratic body; but I contend that they are a safe and salutary branch of the Government, representing the republican Legislatures of the individual States, and intended to preserve the sovereignty and independence of the State Governments, which they are more likely to do than the President, who is elected by the people at large. A popular President, influenced by the sentiments of his electors, may be induced to believe that it would be best for the general interest that those Governments were destroyed; but as long as we have that body independent of him, and secured in their authority, we may defy such impotent attempts; they will watch his conduct, and prevent the exercise of despotic power. But if they are weakened and stripped of their essential authority, they will become weak barriers against the strides of an uncontrolled power. If you take from them their right to check the President in the removal of officers, they cannot prevent the dismissal of a faithful servant, who has opposed the arbitrary mandates of an ambitious President. The principles laid down in the constitution clearly evince that the Senate ought not only to have a voice in the framing of laws, but ought also to see to their execution.

If this clause is inserted in the bill, it will excite the jealousy of the people; and I venture to predict, there will be a tenfold clamor for amendments to the constitution. I myself shall never be satisfied unless I see fourfold checks upon the President. It will inevitably

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

lead to the establishment of those odious prerogatives which we, by an arduous conflict, have been endeavoring to get rid of.

I will not take up more of your time, Mr. Chairman; but I call on the gentlemen to reflect. They must see plainly, that conferring this power, so far from making the President more responsible, diminishes his responsibility, and inclines to establish him an independent monarch.

MR. SEDGWICK.—Notwithstanding the length of the debate, and the fatigue gentlemen have undergone, I still flatter myself that the importance of the subject will entitle me to a further indulgence. It is not, however, my intention to traverse the vast field which lies before me, nor attempt a general discussion, after what has taken place. My intention at present is to remark upon two or three cases that have particularly struck my mind. First, it is contended, on each side of the question, that it is already a matter of constitutional determination; and, if so, gentlemen on one side say there is no necessity for the interpretation of the Legislature upon it. Again, it is contended that the power of removing is incidental to the power of appointing, and necessarily consequential upon it. In forming the Union, did it necessarily follow that the convention should give the one as incidental to the other? I believe gentlemen will hardly extend their arguments so far. Then the rule is by no means well founded; and the constitution might have given the power of appointment to one branch of the Government, and the removal to another.

The gentleman from Virginia (Mr. WHITE) has laid down a leading principle in the Government, that where a general authority is granted to one branch, every thing subordinate and necessary to effect the object follows of course. The power of creating offices is given to the Legislature. Under this general grant, the Legislature have it under their supreme decision to determine the whole organization, to affix the tenure, and declare the control. This right of determining arises, not from express words, but by natural construction. So the Legislature may determine that an office may be held three, five, or seven years; to be removable by the President, the President and Senate, or the Legislature, or any other person whom they might introduce into office, merely for that particular purpose. This appears to me to be the true construction; and unless something as decisive is shown from the constitution, I shall favor this opinion.

I am obliged to contradict, and would therefore ask pardon for the observation. It is not conceded on one side, though affirmed on the other, that the power of appointing vests in any sense in the Senate. The words in the constitution, (and the arguments have been drawn only from their construction,) lead to a different object. It is therein said that the President shall nominate and appoint: the words are clear. Now, if we take another power, which

is made analagous in the same clause, the power of making treaties, will any one contend that treaties are made by the Senate? The words, in this instance, are: "He shall have power, by and with the advice and consent of the Senate, to make treaties." So the legislative power is lodged in the Senate and House of Representatives; yet this legislative power is exercised to a certain degree under the influence of the Executive Magistrate. But has it ever been considered, that the President constitutes part of the Legislature? Why, therefore, will gentlemen contend, that the influence which one branch of the Legislature has over the Executive, vests that branch with executive powers? The doctrine of the constitution is the reverse of this. I shall not undertake to say that it is with more plausibility contended that the power of removal is constitutionally in the President; because the powers of Government, being distributed among distinct bodies, and all executive authority being vested in him, he therefore has it of course. But I think the fact may be as fairly inferred upon the principle of the gentleman from Virginia, (Mr. WHITE,) in favor of the President, who expressly nominates and appoints, as in favor of the President and Senate. But these arguments have been held up in so many points of view, that it will be time mispent further to dwell upon them: it was with another view that I arose.

It will be agreed on all hands, that this officer, without observing on the subject at large, is merely to supply a natural incompetency in man. In other words, if we could find a President capable of executing this and all other business assigned to him, it would be unnecessary to introduce any other officer to aid him. It is, then, merely from necessity that we institute such an office; because all the duties detailed in the bill are, by the constitution, pertaining to the department of the Executive Magistrate. If the question respected the expediency, I should be content to advocate it on that ground. If expediency is at all to be considered, gentlemen will perceive that this man is as much an instrument in the hands of the President, as the pen is the instrument of the Secretary in corresponding with foreign courts. If, then, the Secretary of Foreign Affairs is the mere instrument of the President, one would suppose, on the principle of expediency, this officer should be dependent upon him. It would seem incongruous and absurd, that an officer who, in the reason and nature of things, is dependent on his principal, and appointed merely to execute such business as is committed to the charge of his superior, (for this business, I contend, is committed solely to his charge;) I say it would be absurd, in the highest degree, to continue such a person in office contrary to the will of the President, who is responsible that the business be conducted with propriety, and for the general interest of the nation. The President is made responsible; and shall he not judge of the talents, abilities, and integrity of

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

his instruments? Will you depend on a man who has imposed upon the President, and continue him in office when he is evidently disqualified, unless he can be removed by impeachment? If this idea should prevail, which God forbid, what would be the result? Suppose even that he should be removable, by and with the advice and consent of the Senate, what a wretched situation might not our public councils be involved in! Suppose the President has a Secretary, in whom he discovers a great degree of ignorance, or a total incapacity to conduct the business he has assigned him; suppose him inimical to the President, or suppose any of the great variety of cases which would be good cause for removal, and impress the propriety of such a measure strongly on the mind of the President, without any other evidence than what exists in his own ideas, from a contemplation of the man's conduct and character day by day—what, let me ask, is to be the consequence if the Senate are to be applied to? If they are to do any thing in this business, I presume they are to deliberate, because they are to advise and consent. If they are to deliberate, you put them between the officer and the President. They are then to inquire into the causes of removal; the President must produce his testimony. How is the question to be investigated? Because, I presume, there must be some rational rule for conducting this business. Is the President to be sworn to declare the whole truth, and to bring forward facts? or are they to admit suspicion as testimony? or is the word of the President to be taken at all events? If so, this check is not of the least efficacy in nature. But if proof be necessary, what is then the consequence? Why, in nine cases out of ten, where the case is very clear to the mind of the President that the man ought to be removed, the effect cannot be produced, because it is absolutely impossible to produce the necessary evidence. Are the Senate to proceed without evidence? Some gentlemen contend not. Then the object will be lost. Shall a man, under these circumstances, be saddled upon the President, who has been appointed for no other purpose but to aid the President in performing certain duties? Shall he be continued, I ask again, against the will of the President? If he is, where is the responsibility? Are you to look for it in the President, who has no control over the officer, no power to remove him if he acts unfeelingly or unfaithfully? Without you make him responsible, you weaken and destroy the strength and beauty of your system. What is to be done in cases which can only be known from a long acquaintance with the conduct of an officer? But so much has been said on this subject, that I will add no further observations upon it.

Let me ask, what will be the consequence of striking out these words? Is the officer to be continued during an indefinite time? For it has been contended that he cannot be removed but by impeachment. Others have contended

that he is always in the power of those who appoint him. But who will undertake to remove him? Will the President undertake to exercise an authority which has been so much doubted here, and which will appear to be determined against him, if we consent to strike out the words? Will the Senate undertake to exercise this power? I apprehend they will not. But if they should, would they not also be brought before the judges, to show by what authority they did it? Because it is supposed by one gentleman, that the case might go before that tribunal, if the President alone removed the officer. But how is this to be done? Gentlemen tell you, that the man who is displaced must apply for a mandamus to admit him to his office. I doubt much if this would be adequate to the purpose. It would be difficult to say whether the mandamus should be directed to the President, to the President and Senate, to the Legislature, or to the people. Could the President be compelled to answer in a civil suit, for exercising the powers vested in him by law and by the constitution? The question upon either of those points would be involved in doubt and difficulty.

If these observations strike the committee in the same point of light, and with the same force that they have struck my mind, they will proceed to determine the present question, and I have no doubt they will determine rightly.

MR. LEE.—I agree with my worthy colleague, (MR. WHITE,) that the day on which this question shall be decided will be a memorable day, not only in the history of our own times, but in the history of mankind; that on a proper or improper decision, will be involved the future happiness or misery of the people of America. Viewing the subject in this light, I am influenced by its importance, and weigh with scrupulous attention the arguments which induce a preponderation in either scale. Hitherto, they appear favorable to that decision which accords with my sentiments of expediency and constitutionality. I hope that a great majority of this House coalesce in these sentiments; for I trust, upon mature reflection and full discussion, the reasoning of the gentlemen in opposition will be found to be more specious than solid.

My colleague has said, that if the principle that all powers of an executive nature, except such as are qualified in the constitution, belong by implication to the President, and the same principle is applied to the Legislature, this Government would be the most tyrannical on earth.

[MR. WHITE interrupted MR. LEE, and declared he never made use of such an expression; he said it would possess the powers of the most absolute Government.]

MR. LEE.—The gentleman should remember that this Government is not vested with those ample powers which he contemplated when he made this observation. This Government is invested with powers for enumerated purposes only, and cannot exercise any others whatever.

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

He advises us to adhere strictly to the constitution. I hope we shall. But I would not act under the influence of arguments addressed to the passions of the committee. This, sir, is a subject to be decided on cool and dispassionate reasoning, and not in the heat of fervid declamation, or under the fears and apprehensions arising from the situation of North Carolina or Kentucky; such references, therefore, appear to me unfit to be made on the present occasion. I hope no gentleman will conceive that this is a power that can in any way endanger the general welfare; I believe it can do no such thing.

It has been said by my colleague, (Mr. WARE,) that the constitution does not vest the power of making this declaration by law. Here, sir, I disagree with him; because the constitution vests in Congress power to make all laws necessary and proper to carry into execution the powers vested by the constitution in the Government of the United States, or in any department or officer thereof. Now, he admits that the constitution vests the power of removal, by necessary implication, in the Government of the United States. Have not Congress, therefore, the power of making what laws they think proper to carry into execution the powers vested by the constitution in the Government of the United States?

It is laid down as a maxim in Government by all judicious writers, that the legislative, executive, and judicial powers should be kept as separate and distinct as possible, in order to secure the liberties of the people. And this maxim is founded on the experience of ages; for we find, that however Governments have been established, however modified in their names or forms, if these powers are blended in or exercised by one body, the effects are ever the same; the public liberty is destroyed.

The several States, in forming their constitutions, have attended particularly to this sacred maxim. We find they sedulously separated these powers of Government; and many of their declarations of rights were intended to perpetuate the inviolable truth. The framers of the constitution of the United States came from among the people, who venerated this general principle; they were the select and honored sons of those people, who, like them, were impressed with sovereign respect for a truth which supported the great object of a good and free Government. Characters like these, with such impressions, were not likely to forego principles in which they were nurtured. Did they forego them? Examine the result of their deliberations, and see how carefully they are preserved. They have divided our Government into three principal branches, with express declarations, that all legislative power shall vest in one, all executive in another, and the whole judicial in a third. It is our bounden duty to imitate their great example, and to support the separation which they have formed. The Legislature has the power to create and establish offices; but it is their duty so to modify them as

to make them conform to the general spirit of the constitution. The people ought to know what belongs to each department; what belongs to the Executive Magistrate, and what is expected from him. Upon what can their sense be exercised, unless they know the particular powers invested in every branch? If a mischievous legislative act be passed, they look to the Legislature, they remonstrate with you, and ask, why was this done? If a wicked executive act is perpetrated, they look to the Executive Magistrate, and ask, why did you do this, or suffer it to be done? If an improper decision takes place in a court of law, they ask of the Judiciary to correct the error. It is by separating and keeping distinct these powers, that the public jealousy can be directed to those objects which are most necessary to be watched; they can discover the error, and know who to blame. But if the powers are blended, their attention is divided, and the responsibility, if not annihilated, is greatly diminished. On the public jealousy, therefore, the freedom of the Government exists; for if the Government is not watched, it either becomes negligent or tyrannical; and to induce the people to keep an observing eye over the actions of men in power, they must have their object specific and single.

Now, as I contend we have the power to modify the establishment of offices, so ought we, Mr. Chairman, to modify them in such a way as to promote the general welfare, which can only be done by keeping the three branches distinct; by informing the people where to look, in order to guard against improper executive acts. It is our duty, therefore, to vest all executive power belonging to the Government, where the convention intended it should be placed. It adds to the responsibility of the most responsible branch of the Government, and, without responsibility, we should have little security against the depredations and gigantic strides of arbitrary power. I say it is necessary, sir, to hold up a single and specific object to the public jealousy to watch; therefore, it is necessary to connect the power of removal with the President. The Executive is the source of all appointments; is his responsibility complete unless he has the power of removal? If he has this power, it will be his fault if any wicked or mischievous action is committed; and he will hardly expose himself to the resentment of three millions of people, of whom he holds his power, and to whom he is accountable every four years.

If the power of removal is vested in the Senate, it is evident, at a single view, that the responsibility is dissipated, because the fault cannot be fixed on any individual; besides, the members of the Senate are not accountable to the people, they are the representatives of the State Legislatures; but even if they were, they have no powers to enable them to decide with propriety in the case of removals, and therefore are improper persons to exercise such authority.

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

Mr. BOUDINOT.—Notwithstanding the long investigation which this question has undergone, I must beg the attention of the committee to a few sentiments further. I have attended with the greatest care to the arguments which have been brought forward on both sides. I respect the characters of the gentlemen who advocate the amendment; their arguments have struck me with considerable force, and induced me to tread with caution. Sir, the efficacy of our Government must depend upon the determination of this House respecting the present question. For my part, I shall certainly attend to the terms of the constitution in making a decision; indeed, I never wish to see them departed from or construed, if the Government can possibly be carried into effect in any other manner. But I do not agree with the gentlemen, that Congress have no right to modify principles established by the constitution; for, if this doctrine be true, we have no business here. Can the constitution be executed, if its principles are not modified by the Legislature? A Supreme Court is established by the constitution; but do gentlemen contend that we cannot modify that court, direct the manner in which its functions shall be performed, and assign and limit its jurisdiction? I conceive, notwithstanding the ingenious arguments of the gentleman from Virginia, (Mr. WHITE, and the gentleman from South Carolina, (Mr. SMITH), that there has not been, nor can be, any solid reason adduced to prove that this House has not power to modify the principles of the constitution. But is the principle now in dispute to be found in the constitution? If it is to be found there, it will serve as a line to direct the modification by Congress. But we are told, that the members of this House appear to be afraid to carry the principles of the constitution into effect. I believe, sir, we were not sent here to carry into effect every principle of the constitution; but I hope, whenever we are convinced it is for the benefit of the United States to carry any of them into effect, we shall not hesitate. Under these impressions, the committee will conceive with me, that every thing relative to the situation of North Carolina and Kentucky ought to be thrown out of the question. What influence ought North Carolina to have over this body? They are not represented; we are to consider the question on its own merits, and, if we find it calculated to increase the public security, we need not hesitate from an apprehension so uncertain, so visionary, as the one that has been laid before us.

Having premised thus far, I shall offer a few remarks upon what has been advanced by the gentlemen who support the motion for striking out the clause; and I shall endeavor to show, even on their own principles, that this power is vested in the President of the United States, and ought to be so decided by Congress.

The principle of the constitution is generally to vest the Government in three branches. I conceive this to be completely done, if we allow for one or two instances, where the executive

and legislative powers are intermixed, and the case of impeachment. These cases I take to be exceptions to a principle which is highly esteemed in America. Let gentlemen attend to what was said by some of the conventions when they ratified the constitution. One great objection was, that the powers were not totally separated. The same objection is, I believe, to be found among the amendments proposed by the State of North Carolina. Now I conceive, if we do any thing to conciliate the minds of people to the constitution, we ought not to modify the principle of the Government, so as to increase the evil complained of, by a further blending of the executive and legislative powers, and that too upon construction, when gentlemen deny that we ought to use construction in any case.

Now let us take up the constitution, and consider, from the terms and principles of it, in whom this power is vested. It is said by some gentlemen to be an omitted case; I shall take up the other principle, which is easier to be maintained, that it is not an omitted case, and say the power of removal is vested in the President. I shall also take up the principle laid down by the gentleman from Virginia (Mr. WHITE) at the beginning of this argument, that, agreeably to the nature of all executive powers, it is right and proper that the person who appoints should remove. This leads me to consider in whom the appointment is vested by the constitution. The President nominates and appoints; he is further expressly authorized to commission all officers. Now, does it appear from this distribution of power that the Senate appoints? Does an officer exercise powers by authority of the Senate? No; I believe the President is the person from whom he derives his authority. He appoints—but under a check; it is necessary to obtain the consent of the Senate; but after that is obtained, I ask who appoints? Who vests the officer with authority? Who commissions him? The President does these acts by his sole power, but they are exercised in consequence of the advice of another branch of the Government. If, therefore, the officer receives his authority and commission from the President, surely the removal follows as coincident.

Now, let us examine whether this construction consists with the true interest of the United States, and the general principles of the constitution. It consists with the general principles of the constitution; because the executive power is given to the President, and it is by reason of his incapacity that we are called upon to appoint assistants. Mention, to be sure, is made of principal officers in departments; but it is from construction only that we derive our power to constitute this particular office. If we were not at liberty to modify the principles of the constitution, I do not see how we could erect an Office of Foreign Affairs. If we establish an office avowedly to aid the President, we leave the conduct of it to his discre-

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

tion. Hence the whole executive is to be left with him. Agreeably to this maxim, all executive power shall be vested in a President. But how does this comport with the true interest of the United States? Let me ask gentlemen where they suspect danger? Is it not made expressly the duty of the Secretary of Foreign Affairs to obey such orders as shall be given to him by the President? And would you keep in office a man who should refuse or neglect to do the duties assigned him? Is not the President responsible for the administration? He certainly is. How then can the public interest suffer?

Then, if we find it to be naturally inferred from the principles of the constitution, coincident with the nature of his duty, that this officer should be dependent upon him, and to the benefit of the United States, for what purpose shall Congress refuse a legislative declaration of the constitution, and leave it to remain a doubtful point? Because, if Congress refuses to determine, we cannot conceive that others will be more entitled to decide upon it than we are. This will appear to give ground for what the gentlemen have asserted, that we are afraid to carry the constitution into effect. This, I apprehend, would not be doing our duty.

Gentlemen say they have a sufficient remedy for every evil likely to result from connecting the Senate with the President. This they propose to do by allowing the power of suspension. This, in the first place, does not answer the end, because there is a possibility that the officer may not be displaced after a hearing before the Senate. And, in the second place, it is entirely inconsistent with the whole course of reasoning pursued by the gentlemen in opposition. I would ask them, if the constitution does not give to the President the power of removal, what part is it that gives the power of suspension? If you will, in one case, construe the constitution, you may do it in another; for I look upon it as dangerous to give the power of suspension by implication, as to give the full power of removal. Gentlemen observe, that I take it for granted that the President has no express right to the power of suspension, and that, if he is to exercise it, it must be drawn by constructive reasoning alone from the constitution. If we are to exercise our authority, we had better at once give a power that would answer two valuable purposes, than one altogether nugatory. In the first place, it would entirely separate the legislative and executive departments, conformably to the great principles of the constitution; and, in the second place, it would answer the end of Government better, and secure real benefits to the Union.

The fears of the gentleman from Virginia (Mr. WHITE) appear to me unfounded. Why does he suppose the inhabitants of North Carolina will take umbrage at our decision? It cannot be because we are averse to uniting the executive and legislative departments; because they are avowed opponents to that doctrine. They cannot be afraid of the President, by rea-

son of his having the power to exercise such authority, for the danger does not lie on that side. The great evil, as was stated by the gentleman from Virginia (Mr. MADISON) yesterday is, that bad officers shall continue in office, and not that good ones may be removed; yet this last is all that is in the power of the President. If he removes a good officer, he cannot appoint his successor without the consent of the Senate; and it is fairly to be presumed, that if at any time he should be guilty of such an oversight, as to remove a useful and valuable officer, the evil will be small, because another as valuable will be placed in his stead. If it is said that this is an injury to the individual, I confess that it is possible that it may be so. But ought we not in the first place to consult the public good? But on mature consideration, I do not apprehend any very great injury will result to the individual from this practice; because, when he accepts of the office, he knows the tenure by which he is to hold it, and ought to be prepared against every contingency.

These being the principles on which I have formed my opinion, in addition to what was stated, I do conceive that I am perfectly justified to my constituents and to my oath, to support this construction. And when I give my vote that the President ought to have the power of removal from office, I do it on principle; and gentlemen in the opposition will leave us to the operation of our judgments on this, as well as every other question that comes before us. For my part, I conceive it is impossible to carry into execution the powers of the President in a salutary manner, unless he has the power of removal vested in him. I do not mean, that if it was not vested in him by the constitution, it would be proper for Congress to confer it; though I do believe the Government would otherwise be very defective, yet we would have to bear this inconvenience until it was rectified by an amendment of the constitution. For my part, I would adhere to every principle contained in it, however defective, and not infringe it for any purpose whatever. In so doing, we shall be justified by our constituents, and have nothing to dread from those apprehensions which have been held out; because I trust in the good sense of our fellow-citizens, that while we do our duty, they will not be backward, on their part, to conform to theirs.

Mr. JACKSON.—I think it necessary to answer a few of the arguments that have been brought forward on the other side of the House, although I am well satisfied the subject has been worn threadbare. With respect to what has been said about the business being ingeniously handled, I agree with the gentleman that the discussion of the bill has been ingenious; and it has been ingeniously brought forward; for the committee have taken care to bring in the present bill, previous to the bill for organizing the Treasury, that the principle might be established before that more delicate business came into view.

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

A gentleman from Massachusetts (Mr. SEDGWICK) has brought forward some arguments which are of great weight. But whilst I acknowledge their weight generally, I must beg leave to differ with him in one particular. He conceives the President, or President and Senate, to be the head of all the executive departments of Government. Now I cannot see it in this point of light. I would ask, where is the necessity, if this doctrine was true, of grafting into the constitution a power to authorize the President to receive the advice of the Senate, and require the opinion in writing of the heads of departments? I appeal to the good sense of the committee to determine, whether these offices are not established by the constitution as heads of departments. How then can they be merely instruments of the President, to conform implicitly to his will? For I deny the principle that they are mere creatures of the law. They have constitutional rights which they may exercise. If the President alone is the head of the whole executive department, and these the mere creatures of the law, where is the necessity of calling them heads of departments in the constitution? Surely the convention did not use a redundancy of words, and insert a clause without a meaning. They either must have done this, or contemplated your Secretary of Foreign Affairs as head of an executive department. Where else shall we search for a meaning? Shall we look into the bill now before the House? That bill stares gentlemen in the face; it acknowledges the Secretary of Foreign Affairs to be the head of a department. Shall the constitution be taken up and construed? If it is, it should not be construed in the manner which the gentlemen have adopted.

I agree with the honorable member last up, that we have a right to modify the judiciary system, and, in doing this, that construction is necessary. But it is a construction of a different kind from what is now contended for; we have a right to extend the powers of that department by construction. There is a great difference between organizing and modifying a department, and modifying the principles of the constitution; there would be great danger in this. If we begin once to construe and define the principles of the constitution, there is no end to our power; we may begin with the alpha and go to the omega, changing, reversing, and subverting every principle contained in it. This never can be the meaning of the constitution; this never was the intention of our constituents; they never sent us here for the purpose of altering the system of Government; they reserved that power to themselves.

I differ with gentlemen who say that the Senate have no part of the executive power, or that the President has no part of the legislative authority. I consider them as checks upon each other, to prevent the abuse of either; and it is in this way the liberties of the people are secured. I appeal for the truth of this sentiment to the writings of *PUBLIUS*. He has proved that

the Senate is a check upon the Executive, for the express purpose of securing the freedom of the people.

Gentlemen have come forward and told us that a power of this kind is necessary to prevent a misapplication of the public money; and to make the officer completely controllable by the President, would be the best security for his fidelity. But the vigilance of the House of Representatives, and the power of impeachment and punishment, would be a better security; for, if the President has the power of removing all officers who may be virtuous enough to oppose his base measures, what would become of the liberties of our fellow-citizens? Your treasury would fall into his hands; for nobody in that department would dare to oppose him. Having then the army and the treasury at his command, we might bid a farewell to the liberties of America forever. The balance would be on his side; and if we were to lose the benefit of the constitution for a day, a month, or a year, it could never be regained, but by an arduous and dreadful conflict. I repeat it again, there are but two things necessary to make a man a despot, the purse and the sword. The constitution gives to the President the power of the latter, and the Legislature is about to give the power of the former into his hands; when this is done the liberties of the people are surrendered to his discretion.

Gentlemen have said that the power in the hands of the Senate would be equally dangerous; but let me ask them whether most danger is to be apprehended from a power vested in the hands of one or many? Besides, the Senate is a body perpetually changing, returning to, and renovating from the mass of the people, which will also be continually watched over by the State Legislatures. It will be readily admitted, that the State Governments are good sentinels and proper checks over their conduct. In this view, I look upon the Senate as a more harmless body than gentlemen seem inclined to suppose it. But it is not so with the President—he is constitutionally armed with high and dangerous powers, which, if left unchecked and unrestrained, might be productive of dangerous consequences. But to extend those powers would increase the danger to an alarming degree; if you grant him the power of removing whom he pleases from office, you will give him a complete control over the whole Treasury Department. Having got the sword, give him the purse, with the army and navy, and what is there left for him to require? With the command of the strong box, he would be able to raise up a legion of officers who would support his measures, secure his election, and thus perpetuate his political existence. Gentlemen will not contend that there is no fear of corruption, when the President has the power of bribing by a disposal of the public treasure among his partisans. Let us look round at this moment, and see the progress we are making towards venality and corruption. We already hear the sounding title

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

of highness and most honorable trumpeted in our ears, which, ten years since, would have exalted a man to a station as high as Haman's gibbet. These titles have been echoed, even in the Boston papers, a town which, fifteen years ago, would acknowledge no lord but the Lord of Hosts.

I call upon gentlemen to show me, why the heads of departments are necessarily dependent upon the President, when the constitution specifically points them out. I cannot, for my part, admit that any part of the constitution authorizes the President to exercise an uncontrolled power over them, because I perceive, as a fundamental principle in the constitution, that the exercise of all power should be properly checked and guarded; the Senate is the proper check on the President, and the President on the Senate and this House. These being my sentiments, and conceiving it the only way to secure the rights of the people, I shall be against the clause, and hope it may be rejected.

Mr. SCOTT.—Before I call again for the question, although I confess I have been long since ready for it, I beg leave to say a few words, and I assure the committee I do not mean to be tedious. I have listened to the arguments in support of this motion these three days with great attention, and think, when taken together, they consist in this, the raising of a great number of frightful pictures, which, at first sight, appear very terrible; but when they are attentively contemplated, they appear to be the vagaries of a disordered imagination. Let us examine one or two of these frightful pictures, merely as a sample of the whole set, and see what they amount to. The most frightful of all that have been brought into view is, that the Treasurer must be the mere creature of the President, and conform to all his directions, or he arbitrarily removes him from office, and lays his hands violently upon the money chest; then, having the sword and the purse, you see the President boldly advancing, supported by the army and navy, and the money chest in the back ground, engaging the liberties of the people; armed with all this omnipotence of power, the protector rushes onward with irresistible impetuosity—so sudden and fatal is the stroke; that the expiring genius of America has hardly time faintly to say, farewell liberty! Thus despotism rides triumphant, and freedom and happiness are trampled in the dust. Strange, that all this should arise from the Executive Magistrate having the power of removal. But gentlemen tell us, that if we keep the Treasurer out of the power of the President, he cannot injure us; that, being thus independent, your strong box will be well guarded, and the President cannot get your money unless he steals it; and if he steals it, and the Treasurer sees him, he will tell. This will lead to an impeachment, and we shall get rid of the cause of our apprehensions. But the constitution says, that no money shall be taken out the Treasury but by appropriations: this alone, I think, a suf-

ficient answer to all that has been said, and will serve to soften down the harsh features which the terrible picture I have just now mentioned displayed. I say, sir, our money may be in the Treasury by millions, and, without special appropriation by the Legislature, neither the President, Treasurer, nor both together, can touch a farthing of it, unless they steal it. This being the case, I see as little security to the Treasury in the independence of this officer, as danger arising from his dependence, without a single exception; for if the President, with a strong army at his back, comes violently to lay hold of the money chest, this officer stands but a very poor security against such a power. I think the President, supported with the army and navy, making a descent upon your Treasury, would be very apt to carry away the money and the Treasurer too, if he stood in his way. Arguments like these may tend to amuse, but they can make no serious impression; it is only drawing pictures on a wall, in order to batter them down with our own knuckles.

Another picture is drawn, by way of comparison, between the Senate and the President; and we have gone into arguments to prove who are nearest akin to the people. Here we have run deep into the science of calculating kindred; and it seems to be concluded by the supporters of this motion, that the Senate is much nearer related to them than the President. Therefore, the latter, as a stranger, must not be entrusted with the removal of officers, but our kinsmen, the Senate, may. But is this a fair construction of the relationship? Is any thing more plain than that the President, above all the officers of Government, both from the manner of his appointment, and the nature of his duties, is truly and justly denominated the man of the people? Is there any other person who represents so many of them as the President? He is elected by the voice of the people of the whole Union; the Senate are the representatives of the State sovereignties; the representatives of that species of beings which, if any thing stands in the way of the just execution of the Federal Government, they are the creatures. The separate sovereignties of the several States are the most effectual bar to prevent the operations of the present system; yet this body is held up as more nearly related to the people than the President himself, when no man in the United States has their concurrent voice but him. Hence it appears, that although this picture is not quite so ludicrous as the first, it is equally a caricature; and so of the rest. Sir, I have really felt amazed how these kind of arguments ever found their way into the minds of wise and enlightened men.

Mr. GOODRUE.—It has long been an opinion entertained of the people of America, that they would not trust the Government with the power of doing good lest it should be abused; but contrary to the expectation of its enemies, a constitution is formed providing those powers which we suffered so much for want of under the old

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

confederation. The question on the present occasion seems to stand on nearly the same ground, whether we shall trust the power of doing good to the Executive Magistrate, or deprive him of it for fear he may abuse it. The constitution has recognised three great branches of the Government, and distributed among them all the powers which are granted. I conceive, therefore, in no case whatever can any kind of construction be put to lessen the powers of either of those branches. The only security which the constitution means to give us is, to call the officers of Government to account if they abuse their powers, and not to cramp their exercise so as to make them inefficient.

It is contended by some gentlemen, that the constitution has, by implication, vested the power of removal in the President and Senate; but are we to decide a question by implication in favor of the Senate, and not to construe any part of the constitution in favor of the President? It has also been said, that the power would be more safe in the hands of the Senate than in that of the President; but I do not view it in that light. It has, however, been justly shown, that it would be a very inconvenient and useless power for them to be possessed of it. It is in nothing similar to the power they have in appointments. There they are really useful by their advice; because it is more probable that the Senate may be better acquainted with the characters of the officers that are nominated than the President himself. But after their appointments such knowledge is little required. The officer is placed under the control of the President; and it is only through him that the improper conduct of a person in a subordinate situation can be known. He therefore is the only person who can properly apply the remedy; unless, indeed, the officer's mal-practices are so conspicuous as to furnish ground for impeachment; and this power, vested by the constitution in the House of Representatives and Senate, will apply the remedy in such case, if the President should neglect, or if the officer should be a favorite of his. It moreover appears very clear to me, that the Senate, who are a judicial body, ought not to meddle with the business of removal; because they will have prejudged the case, if an impeachment should thereafter be made.

Mr. JACKSON.—I admit, sir, the justness of an old observation, that ridicule is the test of truth. I would rather that my arguments were caricatured against a wall, to be battered down by my own knuckles, than join a system forging chains for my country. It will be a matter of small consolation to the gentleman from Pennsylvania, when the hour of repentance arrives, that he has been facetious at the expense of his fellow-citizens' security.

Mr. GERRY.—So far, Mr. Chairman, am I from feeling hurt by the ludicrous situation in which our arguments are placed by the gentleman from Pennsylvania, that I am obliged to him for the relaxation it has afforded. These

sportive fancies unbend the mind, and make us in better humor with each other. But no gentleman expects that we shall be laughed out of our reason or our liberty.

The Parliament of England is one of the most important bodies on earth; but they can do nothing without the concurrence of the Executive Magistrate. The Congress of the United States are likely to become a more important body; the Executive Magistrate has but a qualified negative over them. The Parliament of England, with the consent of the King, can expound their constitution; in fact, they are the constitution itself. And Congress may, if once the doctrine of construction is established, make the constitution what they please; and the President can have no control over them.

It has been said by my colleague, (Mr. SENGWICK,) that the President not only nominates, but appoints the officers; and infers from hence, that as the power of removal is incidental to the power of appointing, the President has the power of removal also. But I should be glad to know how it can, with justice, be said that the President appoints. The constitution requires the consent of the Senate; therefore they are two distinct bodies, and intended to check each other. If my colleague's is a true construction, it may be extended further, and it may be said, that in the act of nominating, the assent of the Senate is virtually given; and, therefore, he has a right to make the whole appointment himself, without any interference on the part of the Senate. I contend, sir, that there is just as much propriety in the one construction as in the other. If we observe the enacting style of the statutes of Great Britain, we shall find pretty nearly the same words as those used in the constitution, with respect to appointments—Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of Parliament. Here it might be said that the King enacts all laws; but I believe the truth of this fact will be disputed in that country. I believe no one will pretend to say that the King is the three branches of Parliament; and, unless my colleague will do all this, I never can admit that the President in himself has the power of appointment.

My colleague has gone further, to show the dependence of this officer on the President. He says, the necessity of appointing a Secretary of Foreign Affairs arises from a natural defect in man; that if the President were able to administer all these departments, there would be no occasion of making provision by law. If the President had power superior to the limits of humanity, he might render his country great services; but we are not likely to have any such President; the constitution itself contemplates none; it makes provision for the infirmities of human nature; it authorizes us to establish offices by law; and this is the ground upon which we stand. Indeed, this is the ground that was assumed yesterday by my colleague, when he said that this officer was the creature

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

of the law. If he is the creature of the law, let him conduct according to law, and let it not be contended that he is the creature of the President; because he is no further the creature of the President, than that he is obliged to give his opinion in writing when required. But it is said, the President is responsible for the conduct of this officer. I wish to know what this responsibility is. Does it mean, if a subordinate executive officer commits treason, that the President is to suffer for it? This is a strange kind of responsibility. Suppose, in the case of the Secretary of Treasury, there should be a defalcation of the public revenue; is he to make good the loss? Or if the head of the army should betray his trust, and sacrifice the liberties of his country; is the President's head to be the devoted sacrifice? The constitution shows the contrary by the provision made for impeachment; and this I take to be one of the strongest arguments against the President having the power of removing one of the principal officers of Government—that he is to bear his own responsibility.

It has been urged by the gentleman over the way, (Mr. SCOTT), that the President is the man of the people, and their particular representative. Now how this can warrant those strong terms in which it has been asserted, I leave the committee to determine, when he can be elected by electors appointed by the State Legislatures. Is the creature of the deputy of a deputy nearer to the people than the creature of their deputy? Would that gentleman consider the issue of his wife's maid nearer akin to him than the issue of his wife?

The question before the committee must be decided on one of these two grounds: either they must suppose this power is delegated particularly to the President by the constitution, or it is not. Let us examine these two cases. If gentlemen say that it is delegated by the constitution, then there is no use for the clause; but if it is not particularly delegated to the President by the constitution, and we are inclined to authorize him to exercise this power, I would ask gentlemen, whether this is the proper way to do it? Whether a little clause, hid in the body of a bill, can be called a declaratory act? I think it cannot. It looks as if we were afraid of avowing our intentions. If we are determined upon making a declaratory act, let us do it in such a manner as to indicate our intention. But perhaps gentlemen may think we have no authority to make declaratory acts. They may be right in this opinion; for, though I have examined the constitution with attention, I have not been able to discover any clause which vests Congress with that power. But if the power of making declaratory acts really vests in Congress, and the judges are bound by our decisions, we may alter that part of the constitution which is secured from being amended by the fifth article; we may say, that the ninth section of the constitution, respecting the migration or importation of

persons, does not extend to negroes; that the word persons means only white men and women. We then proceed to lay a duty of twenty or thirty dollars per head on the importation of negroes. The merchant does not construe the constitution in the manner that we have done. He therefore institutes a suit, and brings it before the Supreme Judicature of the United States for trial. The judges, who are bound by oath to support the constitution, declare against this law; they would, therefore, give judgment in favor of the merchant. But, say Congress, we are the constitutional expounders of this clause, and your decision in this case has been improper. Shall the judges, because Congress have usurped power, and made a law founded in construction, be impeached by one branch, and convicted by the other, for doing a meritorious act, and standing in opposition to their usurpation of power? If this is the meaning of the constitution, it was hardly worth while to have had so much bustle and uneasiness about it. I would ask gentlemen, if the constitution has given us power to make declaratory acts, where is the necessity of inserting the fifth article for the purpose of obtaining amendments? The word amendment implies a defect; a declaratory act conceives one. Where, then, is the difference between an amendment and a declaratory act? I call upon the gentleman to point out what part of the constitution says we shall correct that instrument by a declaratory act. If gentlemen once break through the constitutional limits of their authority, they will find it very difficult to draw a boundary, which will secure to themselves and their posterity that liberty which they have so well contended for.

[Several gentlemen rose to speak, but sat down again upon a call for the question, which seemed to be pretty general through the House; when Mr. SUMNER arose, and begged gentlemen not to be so precipitate. If they considered the importance of the question, and the consequences of the decision, they would reflect more deliberately before they gave their votes. For his part, he sat patiently, and attended seriously to the arguments offered on both sides. He had received considerable information from the discussion which had already taken place, and he hoped that more light would still be thrown upon it, if gentlemen were not precluded from pursuing the subject by a precipitate call for the question. He hoped gentlemen would give further time, and let other members speak, who were desirous of delivering their sentiments.]

Mr. SHERMAN.—The importance of this question requires mature deliberation; the more I have heard it discussed, the more convinced I am that the clause ought to be struck out. If we suppose (and gentlemen do suppose on this side of the question) that the power is vested in the President by the constitution, why should we intermeddle in the matter? Why are we officiously to intrude our opinions upon the President? Are we to suppose he is unac-

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

quainted with his duty, and is to be taught it by our superior wisdom? I apprehend that the electors who chose the President, thought him competent to understand his duty; what then can induce us to give our advice unasked? If he was in doubt, and was to apply to us for such a purpose, there might be some propriety in it. The convention, who formed this constitution, thought it would tend to secure the liberties of the people, if they prohibited the President from the sole appointment of all officers. They knew that the Crown of Great Britain, by having that prerogative, has been enabled to swallow up the whole administration; the influence of the Crown upon the Legislature subjects both Houses to its will and pleasure. Perhaps it may be thought, by the people of that kingdom, that it is best for the Executive Magistrate to have such kind of influence; if so, it is very well, and we have no right to complain that it is injurious to them, while they themselves consider it beneficial. But this Government is different, and intended by the people to be different. I have not heard any gentleman produce an authority from law or history which proves, that where two branches are interested in the appointment, one of them has the power of removal. I remember that the gentleman from Massachusetts, (Mr. SEDGWICK,) told us, that the two Houses, notwithstanding the partial negative of the President, possessed the whole legislative power; but will the gentleman infer from that, that because the concurrence of both branches is necessary to pass a law, a less authority can repeal it? This is all we contend for.

Some gentlemen suppose, if the President has not the power by the constitution, we ought to vest it in him by law. For my part, I very much doubt if we have the power to do this. I take it, we would be placing the heads of departments in a situation inferior to what the constitution contemplates; but if we have the power, it will be better to exercise it than attempt to construe the constitution. But it appears to me, that the best way will be to leave the constitution to speak for itself whenever occasion demands.

It has been said, that the Senate are merely an advisory body. I am not of this opinion, because their consent is expressly required; if this is not obtained, an appointment cannot be made. Upon the whole, I look upon it as necessary, in order to preserve that security which the constitution affords to the liberty of the people, that we avoid making this declaration, especially in favor of the President, as I do not believe the constitution vests the authority in him alone.

Mr. AMES.—I believe there are very few gentlemen on this floor who have not made up their opinions; therefore it is particularly disagreeable to solicit their attention, especially when their patience is already exhausted, and their curiosity sated; but still I hope to be of some use in collecting the various arguments,

and bringing them to a point. I shall rather confine myself to this task, than attempt to offer any thing that is new. I shall just observe, that the arguments of the gentleman from Pennsylvania, (Mr. SCOTT), which are complained of as being ridiculous, were arguments addressed to the understandings of the committee; my own understanding was enlightened by them, although they wore the garb of pleasantry. But to proceed to my main object.

The question, so far as it relates to the constitution, is this: whether it has vested the sole power of removing in the President alone, or whether it is to take place by and with the advice and consent of the Senate? If the question of constitutionality was once despatched, we should be left to consider of the expediency of the measure. I take it to be admitted on all hands, though it was at first objected to by a worthy gentleman from South Carolina, that the power of removal from office, at pleasure, resides somewhere in the Government. If it does not reside in the President, or the President and Senate, or if the constitution has not vested it in any particular body, it must be in the Legislature; for it is absurd to suppose that officers once appointed cannot be removed. The argument tending to prove that the power is in the President alone, by an express declaration, may not be satisfactory to the minds of those gentlemen who deem the constitution to be silent on that head. But let those gentlemen revert to the principles, spirit, and tendency of the constitution, and they will be compelled to acknowledge that there is the highest degree of probability that the power does vest in the President of the United States. I shall not undertake to say that the arguments are conclusive on this point. I do not suppose it is necessary that they should be so; for I believe nearly as good conclusions may be drawn from the refutations of an argument as from any other proof. For it is well said, that *destructio unius est generatio alterius*.

It has been said, and addressed with solemnity to our consciences, that we ought not to destroy the constitution, to change or modify it; nay, it has been inferred that it is unnecessary and dangerous for us to proceed in this inquiry. It is true we may decide wrong, and therefore there may be danger; but it is not unnecessary. We have entered too far in the discussion to retreat with honor to ourselves, or security to our country. We are sworn as much to exercise constitutional authority, for the general good, as to refrain from assuming powers that are not given to us. We are as responsible for forbearing to act, as we are for acting. Are we to leave this question undetermined, to be contended for between the President and the Senate? Are we to say, that the question to us is indissoluble, and we therefore throw it upon the shoulders of the President to determine? If it is complex and difficult, it is certainly disingenuous in us to throw off the decision; besides, after so long a debate has been had, a decision

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

must be made, for it never would do to strike out the words; as that would be deciding, and deciding against the power of the President.

It must be admitted that the constitution is not explicit on the point in contest; yet the constitution strongly infers that the power is in the President alone. It is declared that the executive power shall be vested in the President. Under these terms all the powers properly belonging to the executive department of the Government are given, and such only taken away as are expressly excepted. If the constitution had stopped here, and the duties had not been defined, either the President had had no powers at all, or he would acquire from that general expression all the powers properly belonging to the executive department. In the constitution the President is required to see the laws faithfully executed. He cannot do this without he has a control over officers appointed to aid him in the performance of his duty. Take this power out of his hands, and you virtually strip him of his authority; you virtually destroy his responsibility—the great security which this constitution holds out to the people of America.

Gentlemen will say, that, as the constitution is not explicit, it must be matter of doubt where the power vests. If gentlemen's consciences will not let them agree with us, they ought to permit us to exercise the like liberty on our part. But they tell us we must meet them on the ground of accommodation, and give up a declaration that the power of removal is in the President, and they will acquiesce in declaring him to have the power of suspension; but they should recollect, that in so doing we sacrifice the principles of the constitution.

It has been frequently said, that the power of removing is incidental to the power of appointing: as the constitution implies that all officers, except the judges, are appointed during pleasure, so the power of removal may, in all cases, be exercised. But suppose this general principle true; yet it is an arbitrary principle, I take it, and one that cannot be proved. If it were denied, it could not be established; and if it were established, it is still doubtful whether it would make for the adverse side of this question or not; because it is doubted whether the Senate do actually appoint or not. It is admitted that they may check and regulate the appointment by the President, but they can do nothing more; they are merely an advisory body, and do not secure any degree of responsibility, which is one great object of the present constitution. They are not answerable for their secret advice; but if they were, the blame divided among so many would fall upon none.

Certainly this assumed principle is very often untrue; but if it is true, it is not favorable to the gentlemen's doctrine. The President, I contend, has expressly the power of nominating and appointing, though he must obtain the consent of the Senate. He is the agent; the Senate may prevent his acting, but cannot act

themselves. It may be difficult to illustrate this point by examples which will exactly correspond. But suppose the case of an executor, to whom is devised land, to be sold with the advice of a certain person, on certain conditions; the executor sells, with the consent and upon the conditions required in the will; the conditions are broken;—may the executor re-enter for the breach of them? Or has the person, with whom he was obliged to consult in the sale, any power to restrain him? The executor may remove the wrongful possessor from the land, though perhaps by the will, he may hold it in trust for another person's benefit. In this manner the President may remove from office, though, when vacant, he cannot fill it without the advice of the Senate. We are told it is dangerous to adopt constructions, and that what is not expressly given, is retained. Surely it is as improper in this way to confer power upon the Senate as upon the President; for if the power is not in the President solely by the constitution, it never can be in the President and Senate by any grant of that instrument. Any arguments, therefore, that tend to make the first doubtful, operate against the other, and make it absurd. If gentlemen, then, doubt with respect to the first point, they will certainly hesitate with respect to the other. If the Senate have not the power, and it is proved that they have it not, by the arguments on both sides, the power either vests with the President or the Legislature; if it is at the disposal of the latter, and merely a matter of choice with us, clearly we ought not to bestow it on the Senate; for the doubt, whether the President is not already entitled to it, is an argument against placing it in other hands. Besides, the exercise of it by the Senate would be inconvenient; they are not always sitting; it would be insecure, because they are not responsible; it would be subversive of the great principles of the constitution, and destructive to liberty, because it tends to intermingle executive and legislative powers in one body of men; and this blending of powers ever forms a tyranny. The Senate are not to accuse offenders; they are to try them; they are not to give orders, but, on complaint, to judge of the breach of them. We are warned against betraying the liberties of our country; we are told that all power tends to abuse; it is our duty, therefore, to keep them single and distinct. Where the Executive swallows up the Legislature, it becomes a despotism; where the Legislature trenches upon the Executive, it approaches towards despotism; and where they have less power than is necessary, it approximates towards anarchy. We should be careful, therefore, to preserve the limits of each authority in the present question. As it respects the power of the people, it is but of little importance. It is not pretended that the people have reserved the power of removing bad officers. It is admitted on all hands, that the Government is possessed of such powers; consequently, the people can neither lose nor

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

gain power by it. We are the servants of the people; we are the watchmen, and we should be unfaithful in both characters, if we should so administer the Government as to destroy its great principles and most essential advantages. The question now among us is, which of these servants shall exercise a power already granted? Wise and virtuous as the Senate may be, such a power lodged in their hands will not only tend to abuse, but cannot tend to any thing else. Need I repeat the inconveniences which will result from vesting it in the Senate? No, I appeal to that maxim which has the sanction of experience, and is authorized by the decision of the wisest men; to prevent an abuse of power, it must be distributed into three branches, who must be made independent, to watch and check each other. The people are to watch them all. While these maxims are pursued, our liberties will be preserved. It was from neglecting or despising these maxims, that the ancient commonwealths were destroyed. A voice issues from the earth which covers their ruins, and proclaims to mankind the sacredness of the truths that are at this moment in controversy. It is said that the constitution has blended these powers which we advise to keep separate, and therefore we ought to follow in completing similar regulations. But gentlemen ought to recollect that that has been an objection against the constitution; and if it is a well founded one, we ought to endeavor, by all that is in our power, to restrain the evil rather than to increase it. But perhaps, with the sole power of removal in the President, the check of the Senate in appointments may have a salutary tendency. In removing from office, their advice and consent is liable to all the objections which have been stated. It is very proper to guard the introduction of a man into office by every check that can properly be applied; but after he is appointed, there can be no use in exercising a judgment upon events which have heretofore taken place. If the Senate are to possess the power of removal, they will be enabled to hold the person in office, let the circumstances be what they may that point out the necessity or propriety of his removal. It creates a permanent connexion; it will nurse faction; it will promote intrigue to obtain protectors and to shelter tools. Sir, it is infusing poison into the constitution; it is an impure and unchaste connexion; there is ruin in it; it is tempting the Senate with forbidden fruit; it ought not to be possible for a branch of the Legislature even to hope for a share of the executive power; for they may be tempted to increase it, by a hope to share the exercise of it. People are seldom jealous of their own power; and if the Senate become part of the executive, they will be very improper persons to watch that department; so far from being champions for liberty, they will become conspirators against it.

The executive department should ever be independent, and sufficiently energetic to defeat the attempts of either branch of the Legislature

to usurp its prerogative. But the proposed control of the Senate is setting that body above the President; it tends to establish an aristocracy. And at the moment we are endangering the principles of our free and excellent constitution, gentlemen are undertaking to amuse the people with the sound of liberty. If their ideas should succeed, a principle of mortality will be infused into a Government, which the lovers of mankind have wished might last to the end of the world. With a mixture of the executive and legislative powers in one body, no Government can long remain uncorrupt. With a corrupt Executive, liberty may long retain a trembling existence. With a corrupt Legislature, it is impossible; the vitals of the constitution would be mortified, and death must follow on every step. A Government thus formed would be the most formidable curse that could befall this country. Perhaps an enlightened people might timely foresee and correct the error; but if a season were allowed for such a compound to grow and produce its natural fruit, it would either banish liberty, or the people would be driven to exercise their unalienable right, the right of uncivilized nature, and destroy a monster whose voracious and capacious jaws would crush and swallow up themselves and their posterity.

The principles of this constitution, while they are adhered to, will perpetuate that liberty which it is the honor of Americans to have well contended for. The clause in the bill is calculated to support those principles; and for this, if there was no other reason, I should be inclined to give it my support.

MR. LIVERMORE.—I think gentlemen ought to consent to strike out the words, even upon their own principles; for we ought not to blend the legislative with the executive powers; and surely a declaration like that contained in the bill, is an interference on our part with the executive department. Leave them to do their duty, and let us do ours.

The decision of this question depends upon the construction of a short clause in the constitution, in which is designated the power of the President. It is said he shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; he shall nominate, and, by and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls, justices of the Supreme Court, and all other officers of the United States. Strange constructions have been given to this advice and consent of the Senate, which, if agreed to, will make the whole constitution nothing, or any thing, just as we please. If we can deprive the Senate of their power in making treaties, and say with truth that they have no authority in the business, the Legislature will become a dangerous branch of the Government. So in the case of appointing officers;—if it can be truly said that these heads of departments are the servants of the President

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

alone, we shall make the executive department a dangerous one. I should not dwell so strongly on these two points, had not a gentleman from Massachusetts (Mr. SEDGWICK) asserted that the power of appointing did not vest, in any sense, in the Senate, nor that they were instrumental in making treaties; that all officers were the servants of the President, and he alone responsible.

Mr. SEDGWICK imagined the gentleman had misunderstood him, because he said, when he was last up, that it was not conceded on this side that the power of appointing vested in the Senate, nor in the case that appeared analogous, namely, that of making treaties; but he did not deny that the concurrence of the Senate was necessary to the completion of the act. He had undertaken to say that the Legislature were at liberty to determine that an officer should be removable by the President, or by whom they pleased; that he was absolutely the creature of the law, and subject to legislative discretion. He also said it was more plausibly contended that the power of removal was more constitutionally in the President, than in the President and Senate; but he did not say that the arguments on either side were conclusive.

Mr. LIVERMORE did not desire to lay any stress upon arguments which he had misunderstood. He would therefore pass over what he had intended to say on that head; and he would endeavor to give such a construction to the clause he had read, as would justify the House in striking out the words from the bill.

If the consent of the Senate be absolutely requisite with respect to appointments, it is one thing; but if the President has no more to do than to ask their opinion, or to receive their advice, it is another thing. The latter appeared to him to be the sentiment of another gentleman from Massachusetts, (Mr. AMES.)

[Mr. AMES rose and denied such an opinion. His idea was that the President was the agent, and the Senate a check to regulate his agency.]

Mr. LIVERMORE.—I shall take it, then, with the consent of gentlemen, that the Senate has an absolute control over the President in cases of appointment. Now, being thus appointed, how are officers to be displaced? On this point I undertake to give my opinion; though, in the first place, I must differ with one of the gentlemen on this side of the question, (Mr. SMITH, of South Carolina.) I do not admit that any man has an estate in his office. I conceive all officers to be appointed during pleasure, except where the constitution stipulates for a different tenure, unless indeed the law should create the office, or officer, for a term of years. After observing this, I must contend, with the honorable gentleman from Virginia, (Mr. WARR,.) that the power of removal is incidental to the power of appointment. If it were the President alone that appointed, he alone could displace. If the President and Senate, by a joint agreement, appoint an officer, they alone have the power to supersede him; and however any gentleman may say he doubts, or does not un-

derstand the force of this principle, yet to me it appears as clear and as demonstrable as any principle of law or justice that I am acquainted with. There is another method of displacing officers expressly pointed out by the constitution; and this implies, in the clearest manner, that in all other cases, officers may be removed at pleasure; and, if removed at pleasure, it must be at the pleasure of the parties who appointed them.

Congress are enabled, by the constitution, to establish offices by law. In many cases, they will no doubt vest the power of appointing inferior officers in the President alone. They have no express right, by the constitution, to vest in him the power of removing these officers at pleasure; yet no gentleman will contend that inferior officers ought not to be removable at pleasure. How, then, can the President acquire this authority, unless it be on the principle that the power of removal is incidental, and the natural consequence of the power of appointing. If gentlemen will maintain consistency, they will be compelled to acknowledge the force of this principle; and if they acknowledge the principle, they must agree to strike out the words.

Mr. SMITH, of South Carolina.—As my silence may be construed into a dereliction of my former sentiments, I beg permission of the committee to assure them, that my opinion on the question of constitutionality has undergone no change whatever. Indeed, the arguments of gentlemen in favor of the clause have gone mostly on the point of expediency, and have tended rather to show us what the constitution ought to be, than what it is.

An honorable gentleman (Mr. MADISON) of great abilities, and who was a member of the convention that formed the constitution, has given us an interpretation of the first words in the second article, which requires some examination before it is admitted. He says that all powers incidental to the executive department, are vested in the President of the United States. What powers are executive, or incidental to the executive department, will depend upon the nature of the Government; because some powers are vested in the Executive of a monarchy that are not in an aristocracy, and in the Executive of an aristocracy that are unknown in a democracy. The Legislatures of republics appoint to office; this power is exercised by the Executives of monarchies. In England the King appoints all officers; and do gentlemen contend that executive powers vest in the President? The King confers titles of nobility, but the constitution prohibits the United States from granting any. Does it restrain the President, or Congress, from the exercise of this executive power? I believe it restrains Congress. If so, the constitution did not contemplate that the President should exercise all executive power, or the constitution did not understand the power of conferring titles as an executive power. Hence, what I contend for is evinced,

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

that executive powers must take their complexion from the nature of the Government. Can the President establish corporations? Can he prevent citizens from going out of the country? He cannot. Yet these powers are exercised, as executive powers, by the King of Great Britain. There are a variety of other powers exercised, as executive powers, to which the President is not entitled. From this I am led to believe that the gentleman may be wrong, when he considers the power of removal as an executive power, and incidental to the prerogative of the President. For my part, I conceive the President is to exercise all executive powers granted in the constitution, as the Legislature is to exercise all legislative authority, according to these words in the first article: "All legislative powers herein granted shall be vested in a Congress of the United States."

However solemnly the contrary doctrine may be insisted upon, however ridiculously our arguments may be treated, I hope we shall preserve a due attention to the reason and nature of things, and to the constitution; and not suffer ourselves to be forced or laughed out of our principles. Ridicule is said to be the test of truth; and, to be sure, that touchstone has been applied, with what success I leave gentlemen to determine. For my part, though I admit the gentleman's talent at caricature, yet I should never think of employing him at portrait work.

The extreme desire which gentlemen have manifested to retain this clause, makes me suspicious that they do not themselves think there is good reason to believe the President would think of exercising the authority which they are so desirous of giving him to understand that he ought. To my mind, it is a strong proof that gentlemen do not think the power is vested in him by the constitution. If gentlemen were satisfied that the constitution gave this power to the President, they would not hesitate, at the request of so numerous and respectable a part of the House, to strike out the words. I say they would not hesitate to do this, because they did not hesitate to strike out similar words. When the business was first brought before the Committee of the whole, gentlemen will recollect, that the motion for establishing the Departments of Finance, War, and Foreign Affairs, was first introduced; it contained a clause declaring that the officers should be respectively appointed by the President, by and with the advice and consent of the Senate. Gentlemen, who are now in the minority, declared such a clause to be unnecessary, because the constitution had already given the power. The solidity of this reasoning was admitted by a majority of the House at that time; even the honorable gentleman from Virginia (Mr. Madison) acquiesced in striking out the words. If gentlemen wish to be considered consistent, they will consent to strike out the words, "to be removable by the President;" provided they are of opinion that the constitution vests this authority in the President alone.

If it is not vested by the constitution in the President alone, will gentlemen undertake to vest it in him by law, when it is so well contended that the constitution vests it in the President and Senate?

Mr. MADISON.—The question now seems to be brought to this, whether it is proper or improper to retain these words in the clause, provided they are explanatory of the constitution. I think this branch of the Legislature is as much interested in the establishment of the true meaning of the constitution, as either the President or Senate; and when the constitution submits it to us to establish offices by law, we ought to know by what tenure the office should be held; and whether it should depend upon the concurrence of the Senate with the President, or upon the will of the President alone; because gentlemen may hesitate in either case, whether they will make it for an indefinite or precise time. If the officer can be removed at discretion by the President, there may be safety in letting it be for an indefinite period. If he cannot exert his prerogative, there is no security even by the mode of impeachment; because the officer may intrench himself behind the authority of the Senate, and bid defiance to every other department of Government. In this case, the question of duration would take a different turn. Hence it is highly proper that we and our constituents should know the tenure of the office. And have we not as good a right as any branch of the Government to declare our sense of the meaning of the constitution?

Nothing has yet been offered to invalidate the doctrine, that the meaning of the constitution may as well be ascertained by the legislative as by the judicial authority. When the question emerges as it does in this bill, and much seems to depend upon it, I should conceive it highly proper to make a legislative construction. In another point of view it is proper that this interpretation should now take place, rather than at a time when the exigency of the case may require the exercise of the power of removal. At present, the disposition of every gentleman is to seek the truth, and abide by its guidance when it is discovered. I have reason to believe the same disposition prevails in the Senate. But will this be the case when some individual officer of high rank draws into question the capacity of the President, with the Senate, to effect his removal? If we leave the constitution to take this course, it can never be expounded until the President shall think it expedient to exercise the right of removal, if he supposes he has it; then the Senate may be induced to set up their pretensions. And will they decide so calmly as at this time, when no important officer in any of the great departments is appointed to influence their judgments? The imagination of no member here, or of the Senate, or of the President himself, is heated or disturbed by faction. If ever a proper moment for decision should offer, it must be one like the present.

I do not conceive that this question has been

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 18, 1789.]

truly stated by some gentlemen. In my opinion, it is not whether we shall take the power from one branch of the Government and give it to another; but the question is, to which branch has the constitution given it? Some gentlemen have said, that it resides in the people at large; and that if it is necessary to the Government, we must apply to the people for it, and obtain it by way of amendment to the constitution. Some gentlemen contend, that although it is given in the constitution, as a necessary power to carry into execution the other powers vested by the constitution, yet it is vested in the Legislature. I cannot admit this doctrine either; because it is setting the Legislature at the head of the executive branch of the Government. If we take the other construction of the gentleman from South Carolina, that all officers hold their places by the firm tenure of good behavior, we shall find it still more improper. I think gentlemen will see, upon reflection, that this doctrine is incompatible with the principles of free Government. If there is no removability but by way of impeachment, then all the executive officers of Government hold their offices by the firm tenure of good behavior, from the Chief Justice down to the tide-waiter.

[Mr. SMITH interrupted Mr. M.; and said that he had admitted that inferior officers might be removed, because the constitution had left it in the power of the Legislature to establish them on what terms they pleased; consequently, to direct their appointment and removal.]

Mr. MADISON had understood the gentleman as he now explained himself. But still he contended, that the consequences he had drawn would necessarily follow; because there was no express authority given to the Legislature in the constitution to enable the President, the courts of law, or heads of the departments, to remove an inferior officer; all that was said on that head was confined solely to the power of appointing them. If the gentleman admits that the Legislature may vest the power of removal, with respect to inferior officers, he must also admit that the constitution vests the President with the power of removal in the case of superior officers; because both powers are implied in the same words. The President may appoint the one class, and the Legislature may authorize the courts of law or heads of departments to appoint in the other case. If then it is admitted that the power of removal vests in the President, or President and Senate, the arguments which I urged yesterday, and those which have been urged by honorable gentlemen on this side of the question for these three days past, will fully evince the truth of the construction which we give, that the power is in the President alone. I will not repeat them, because they must have full possession of every gentleman's mind. I am willing, therefore, to rest the decision here; and hope that it will be made in such a manner as to perpetuate the blessings which this constitution was intended to embrace.

Mr. PAGE.—The more I hear on this all-important question, the more I am alarmed. Gentlemen fear much from a blending of the legislative and executive authorities; and I do not blame their fears, for they are but too well grounded; but then they ought not to press for the interference of the Legislature in a matter which they acknowledge wholly to be within the executive department. I think, upon their own principles, they ought to join us in striking out the clause, and leave this question where it ought to be. There is no fear but a proper interpretation will be made, if the Chief Magistrate is a friend to his country. He will exercise his authority when it is required; and if he judges himself to be possessed of the power of removal, he will use it, and submit it to his country to judge whether he was vested with it or not.

But I am astonished at the arguments of gentlemen, who contend, that granting this authority to the President, is the best security to public liberty. Has any State in the Union ever thought it necessary to put such a power into the hands of their Chief Magistrate, in order to secure the liberties of the citizen? If it is that great security which some gentlemen seem to think, it is strange that it should never, as yet, have been thought of under the State Governments. If no State has yet given such a power, I think we are setting a bad example to begin it; if any have done it, we do ill not to set them a better.

When I seconded my colleague's motion for striking out these objectionable words, I contented myself with saying nothing more than that I seconded his motion. This I did, sir, to save time and avoid a repetition of what I had said when the subject was before discussed. I lay it down as a rule, sir, not to use more words here than are absolutely necessary to explain the motives which induced me to vote in a certain manner; or which I humbly conceive may serve to elucidate the subject, and induce some members to vote with me. But, sir, on the present occasion, as much has been said and repeated against the motion which I seconded, and as it is a question of great importance, I must again break through the rule which I had imposed on myself, and give a loose to my imagination, as others have done; if my laconic method of arguing does not strike the House, the members who dislike long speeches must excuse me for being troublesome to them.

I cannot agree to let these words stand as part of the bill, because I think them incompatible with the spirit, if not with the letter of the constitution; as better calculated to excite the jealousy of republics, than to secure the due administration of the affairs of our new republics; and as directly tending to confirm the suspicion of those who have asserted that the new Government would run instantly headlong into a monarchy. Having this idea of the matter, and being persuaded at the same time that the heaped-up powers on the Chief Magistrate especial-

JUNE 18, 1789.]

Secretary of Foreign Affairs.

[H. or R.]

ly as the bill proposes, does not render him more responsible; but, on the contrary, by increasing his importance, and multiplying his dependants, directly tends to diminish his responsibility, and secure him, if not against suspicion, at least against charges of delinquency. To the argument which has been urged against the amendment, which is drawn from the necessity of having energy in Government, despatch, secrecy, and decision; I think all these advantages may be had without putting the respectable heads of departments in a situation so humiliating, that I can scarcely suppose a man of true independent spirit, and fit to be in such an office, could submit to. This doctrine, if pushed as far as it will go, will lead to great lengths—to imprisonment—nay, to execution. Why may it not be said that the President may remove a judge from his bench, or a colonel from his regiment? Does it not appear that much mischief may be done by a corrupt judge or by a treacherous or cowardly colonel? Yet the former must be impeached, and the latter tried by a court-martial. In the latter case, indeed, as commander-in-chief, he may arrest, secure, and decide. And here, I confess, I should see no impropriety in those who wish to guard against the evils they talk of, if they were to move to amend the clause, by proposing that the President should have the power to arrest and imprison, as well as remove; nor do I see any thing amiss in declaring in what manner an officer who is to be appointed under a law shall be removed. The law may with propriety say, what shall be the qualification and what the disqualification of the officer. But, sir, I wish, in the first place, to get rid of an expression which I think will furnish arms to our enemies to attack our Government with fresh vigor, and will discourage our friends, and which must serve to break down the spirit of our officers of state, and make them crouch before the President, as the heads of such departments at Constantinople now do before the Grand Seignior. I see here no prerogatives. Strike out the clause, sir, and you leave your officers responsible to the President, but not abject tools to him. You leave him responsible to Congress, and to our fellow-citizens, his constituents. If he see cause, it will be his duty to lodge information to ground an impeachment; and, in the mean time, he will take such measures as the public good may require. If treason be committed, a commitment on impeachment, and trial, may follow.

The mischief which is past the President may retract. He may cause it to be punished by constitutional means, and by the controlling power given in the bill itself. In my opinion, he may prevent a repetition of the mischiefs. Sir, it is to our infant republic—on which, too, the eyes of the whole world are fixed; on which the future prospect of the happiness of mankind depends—of great consequence to avoid every step which may even appear to be leading it into the fatal paths of tyrannical Government. Every sentence of our laws, sir, should be care-

fully guarded against expressions which may tend to increase the insolent hopes of the enemies of our Government, and the anxious fears of its friends. Every word ought to be expunged from our laws which can have that tendency, if not absolutely and evidently necessary for the public good.

Sir, the arguments in favor of the clause which I wish to expunge, are such as have laid the foundation of tyranny in other countries. The doctrine of energy in Government, as I said before, is the true doctrine of tyrants. I know, sir, nevertheless, that here it is the true doctrine of freemen, of patriots, of men who wish to see it only applied to support that Government which they think is wisely calculated to preserve the liberties of their country. But, sir, I warn those patriots against the use of arguments, which, above all others, may, to their grief and mortification, be cruelly turned against them. For my part, I shall ever prefer the security of my fellow-citizens, whether in or out of office, to a rigid observance of the rules of office; and an independent spirit in our officers, to a prompt servility. Energy of Government may be the destruction of liberty; it should not, therefore, be too much cherished in a free country. A spirit of independence should be cultivated; a sense of honor and virtue nourished with care; and though some irregularities might take place, they would be such as could not endanger public liberty.

I wish to strike out the clause too, sir, because we shall leave the constitution to the proper expositors of it, and because it ill becomes the representatives of a free people, in their first act, to show an eagerness to extend the powers of the Executive.

The friends of the clause support it, because it tends to make the President responsible, and prevents the Senate from exercising a power not vested in them by the constitution, which they think has already invested them with too much power; they require singleness in the executive power to extend the energy of Government. Need I repeat that this energy is oftener employed against the liberty of a people than in favor of it? The liberty and security of our fellow-citizens is our great object, and not the prompt execution of the laws. Indecision, delay, blunders, nay, villainous actions in the administration of Government, are trifles compared to legalizing the full exertion of a tyrannical despotism. Good God! what, authorize in a free republic, by law, too, by your first act, the exertion of a dangerous royal prerogative in your Chief Magistrate! What! where honor and virtue ought to be the support of your Government, will you infuse and cherish meanness and servility in your citizens, and insolence and arbitrary power in your Chief Magistrate, when you know that thousands of virtuous citizens are dissatisfied with your Government, because they think they see the seeds of monarchy in it? And two whole States have refused to unite with you, because they think

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

your Government dangerous to their liberties; will you openly, before their faces, in a solemn act of Congress, insert words which fully justify their opinions and fears?

Let me ask again, does increasing the power and multiplying the dependants of the President diminish his responsibility? How is the President responsible for the conduct of officers whom he appoints, with the advice of the Senate? Why not, if the constitution be silent, as some say, make the Senate responsible for their advice in this case, and say, that the President, with their advice and consent, may suspend and deprive persons of office? Why should they, of whose persons gentlemen are so much afraid, be screened from censure for the malpractices of heads of departments, more than the President? If the clause remain in the bill, the case may stand thus: the Senate may concur in appointing an able, faithful officer; the President may remove him for not being subservient to his views. So that here is a good method to procure a good officer, and a summary process to get rid of him at the same time—the sure means of producing resentment and animosity between the President and Senate, and taking away all responsibility from the latter, and diminishing that of the former. Thus, then, we see the doctrine of responsibility fails to support the clause.

It has been repeatedly said, strike out the clause, and you give the Senate the power they ought not to have. How does this give a power? It may leave the constitution at large, and that may give the power; and, indeed, those gentlemen seem to be aware that it does, or they would not say that the Senate will have the power if we do not take it away. The truth is, the constitution does give that power, and wisely gives it to the Senate, to secure the inhabitants of the respective States. It is to no purpose to say that nations do not blend or separate the power in the manner we have done by our constitution, and to draw inferences from them that it is improper, because England, and the other nations of Europe, are totally different in their constitutions from confederated America.

It is said the officers ought to be commissioned *durante bene placito, et ne dure se bene gererint*—a monstrous doctrine. As to inferior officers, who, we are told, must also be impeached, Congress have a constitutional right to empower the President to appoint, and I suppose to remove also; not that the power necessarily follows appointments.

The call for the question was now pretty general through the House, and several gentlemen were up to speak, when Mr. SUMTER rose, and begged the patience of the committee until to-morrow. He appealed to their candor on the occasion; and hoped other gentlemen, who were disposed to speak, would be indulged with the privilege. He therefore moved that the committee rise and report progress.

Mr. LEE hoped the committee would not rise,

and that the subject would be decided. He did not think it possible it could receive any further elucidation. Gentlemen should remember it had been, on a former occasion, one whole day under consideration, and now, again, it had been debated for three days; this was surely allowing time enough for discussion; besides, if it was not, gentlemen would have a further opportunity of delivering their sentiments, for the decision now will not be final.

Mr. STONE said, he had some further observations to make on this subject, but he would not press the committee to hear him; if they were inclined to indulge him on this point to-morrow, he should be sensible of the favor.

Mr. MADISON said, that he did not wish to prescribe the privileges of the members of a hearing; if the gentleman was disposed to deliver any further sentiments to the committee, he should not insist upon a decision at this time.

The committee now rose, and the House adjourned.

FRIDAY, JUNE 19.

A message from the Senate informed the House that the Senate recede from several of their amendments to the bill “for laying a duty on goods, wares, and merchandises imported into the United States,” disagreed to by this House; and insist on their other amendments to the same bill, also disagreed to by the House. The Senate have also agreed to the report of the joint committee, appointed to view and report on the appropriation of the rooms in the City Hall, to which they desire the concurrence of this House.

DEPARTMENT OF FOREIGN AFFAIRS.

The House again resolved itself into a Committee of the whole on the bill for establishing the Department of Foreign Affairs, Mr. TOWNSEND in the chair. The question on striking out the words “to be removable by the President” being still under consideration,

Mr. JACKSON, from Georgia.—I am well aware, how disagreeable and irksome it must be to have another member rise on this question; but when I consider that the liberties of my country may be suspended on the decision of this question, I feel myself compelled to trespass once more on the patience of the committee. And I cannot but think the time well spent that has been employed in the consideration of this business; it is of great magnitude in every point of view, whether it be considered as a constitutional question, or a question of expediency. And gentlemen will excuse me, if my language should not be adapted to that delicacy to which so respectable a body is entitled. I have accustomed myself to a blunt integrity of speech, which I hope the goodness of my intentions will excuse. For I do most verily believe that this power will become inimical to liberty, and blast all those delightful buds of happiness which the establishment of the new

JUNE 19, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

constitution flattered us would expand and ripen into fruition.

It has been strenuously contended, as necessary to the security of freedom, that the executive branch of the Government should not be blended with the legislative, but ought to be divided, and kept separate and distinct. Now, that this doctrine exists in practice as well as theory, I beg to be convinced. I do not pretend that such an excellency in Government is undesirable. I only wish permission to ask gentlemen (and will they candidly answer me?) to bring forward a single instance in any Government, when and wheresoever, in which the executive and legislative authorities are not blended. Search the annals of history—for I disclaim Utopian politics; search the archives of Rome, the records of Carthage; inspect the historic page of Grecian republics; examine the Jewish theocracy—and will gentlemen say they can bring evidence of the fact? No, the whole assemblage of ancient Governments, so far as has come within the knowledge of the present age, bears ample testimony against them. Turn we then to the middle age; and not one solitary ray of this benign principle is to be discovered; in that period of Cimmerian darkness, the powers of Government were blended in the most confused chaos. Let us turn our eyes then to the enlightened hemisphere that brightens on our Atlantic shores. The Governments of Europe are in an improving state; but none, I apprehend, have yet arrived to that perfection which gentlemen have contemplated. That which we have been taught to consider most pure and favorable to liberty, is the Government of Great Britain. There we shall find that the executive authority is connected with, and forms a part of, the legislative, and this upon constitutional ground; it expands itself further, and within its capacious grasp actually holds the legislative as well as executive powers. If we do not find it there, we will not look for it in the despotisms of the East. Come we then to this country, where the broad effulgence of the sun of liberty shoots down upon its votaries its most vivifying rays; where the head, nurtured by science, is capable to plan the most pure and unsullied system, for the regulation and government of free-born men, who so highly prize the inestimable palm they so lately won; who would rather sink into annihilation than sacrifice it at the altar of despotism or anarchy. Look into the production of her chosen sons—look at your own constitution. Do gentlemen find that it is modelled upon their principles? Are the legislative, executive, and judicial powers kept separate and distinct? No, Mr. Chairman, they are blended; not, to be sure, in so high or dangerous a degree, but in all the possible forms they are capable of receiving; the Executive has a qualified check upon the Legislature; the Legislature exercises the powers of the Judiciary and Executive. Thus, then, I take it, neither our Government, nor that of any nation which now exists, or hath

heretofore existed, was strictly founded upon the principles contended for. I call upon gentlemen, therefore, to convince me, (for I am open to conviction,) how it can be necessary to vest in the President of the United States the power of removal, upon the principle of keeping the executive department separate and distinct? Gentlemen will not, they cannot dispute my facts. How then can they contend for inferences, contradicted by such demonstrable and clear hypotheses?

An honorable gentleman, yesterday, was pleased to treat my honest apprehensions as the mere chimeras of a frightened fancy; but let me assure him, they are not the visionary conceits of an individual; I believe they will be found to be the sentiments of the major part of our constituents. We know well how much they dread the accumulation of power in the hands of the President; not that they fear the exercise of it by a Washington, but the time may come when venality will subtly insinuate and diffuse itself through the system, and corrupt the whole constitution, destroying its beauty, consuming its spirits, and subverting its frame. Then will be the time that the patriotic heart will sincerely lament the legislative effusions of an ungarded moment.

Why should gentlemen complain of my raising spectres, as they term them, when they have indulged themselves in them on less momentous occasions? Those very gentlemen who are boldest now, were the most timid then. Witness the sad forebodings with which we were entertained when it was proposed to tax molasses. Witness the prophetic alarms to rouse our apprehensions on the subject of amendments to the constitution. The gentleman from Pennsylvania engraved to himself a grim and terrific image, to which we were called upon to bow the knee, by making proper regulations respecting the Western territory. I wish gentlemen to be more consistent, and not complain of practices in which they themselves indulge. I have as much right to raise my spectre as another; but, on this occasion, it is not a mere shadow which I have brought forward, but a reality. For, if you take away the powers from one branch of the Government, and give them to another, there is an end of liberty. Judge Blackstone says, that when the constitutional bulwarks are removed from one part of the Government to another, the whole is subverted, and an end put to the constitution. How was it that Carthage lost her liberty? How have all the ancient republics been swallowed up in the gulf of tyranny and despotism, but by an accumulation of power in one particular branch of their Governments? How careful, then, ought we to be in the preservation of those limits which the constitution has prescribed. If, then, the constitution has vested the power of removal in the President and Senate, we ought, on no pretence whatever, to change the body authorized to exercise it. The words of the constitution forcibly imply our construction; and it has never

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

yet been proved, nay, it has hardly been controverted, that the power which appoints is not the power to remove.

It is admitted, that in cases of ambassadors and public ministers, it would be improper to recall them without the concurrence of the Senate; because the Senate are combined with the President, and strongly too, in the objects of their negotiations. How then can gentlemen discriminate? The constitution vests the power of appointing in the one case, the same as in the other; and these officers are also public ministers; the constitution views them in that light; they are styled the heads of departments, and are appointed to advise the President.

But setting aside the constitutionality of the question, where it must be admitted we have the advantage, let us examine the question of expediency, and meet gentlemen on their own ground. In this circle we must expect to meet spectres indeed. Has not your President got the sword in his own hands? for I look forward to the time when America will have both an army and a navy. I do not confine myself to the present period. You may then have a President different from the magistrate that at present fills the chair. If then he has the power of removing and controlling the Treasury Department, he has the purse-strings in his hand; and you only fill the strong box, and collect the money of the empire, for his use. The purse and the sword will enable him to lay prostrate the liberties of America. Is this a mere spectre? No. Experience confirms the observation, a wise people will never let their freedom lie at the will and pleasure of any man.

Another observation has been made to prove the expediency of the measure. It was said by the gentleman from Virginia, that the President was chosen by and from the mass of the people, and therefore might be safely trusted. But the President may be chosen by electors appointed by the State Legislatures; and therefore he is an improper person to be entrusted with this authority. He is not accountable to the people; for they have no immediate hand in appointing or rejecting him. While some gentlemen assert, and others deny, the responsibility of the President, there is danger in deciding. These opposing opinions cannot be reconciled; and therefore will give no proper data to decide in favor of the President.

I call once more on gentlemen to answer me this question, and I shall rest satisfied in giving up my opinion; let them prove to me that it was not the intention of this constitution to blend the executive and legislative powers. If these are the principles of the constitution, why will gentlemen contend for the independency of each branch of the Government? The celebrated Mr. Wilson agrees with me in this sentiment; for he declares that the Senate was constituted a check upon the President. Let gentlemen turn over his speeches delivered in the convention of Pennsylvania, and they will find he asserts it as an incontrovertible fact. This sen-

timent is confirmed by other writers of reputation. It is our business to preserve the constitution inviolate; and if these are its principles, we are to see that they are not injured or deviated from.

Mr. BALDWIN.—I have felt an unusual anxiety during the debate upon this question. I have attentively listened to the arguments which have been brought forward, and have weighed them in my mind with great deliberation; and as I consider a proper decision upon it of almost infinite importance to the Government, I must beg the indulgence of the House while I submit a few observations.

The main ground on which the question is made to rest is, that, if we adopt this clause, we violate the constitution. Many of the gentlemen who advocate the present motion for striking out, would, if they could do it with consistency to the constitution, be in favor of the clause. We have been reminded of our oaths, and warned not to violate the solemn obligation. This injunction has come from so many parts of the House, that it arrested my whole attention for a few minutes; and then they produced us the clause in the constitution, which directed that officers should be appointed by and with the advice and consent of the Senate. They then tell us, that they should be removable in the same manner. We see the clause by which it is directed that they should be appointed in that manner, but we do not see the clause respecting their removal in the same way. Gentlemen have only drawn it as an inference from the former; they construe that to be the meaning of the constitution, which we construe the reverse. I hope, therefore, gentlemen will change their expression, and say, we shall violate their construction of the constitution, and not the constitution itself. This will be a very different charge; unless the gentlemen pretend to support the doctrine of infallibility, as it respects their decisions; and that would perhaps be more than the House would be willing to admit, and more than the people in this country are accustomed to believe.

I have said, the gentlemen rest their principal opposition on this point, that the constitution plainly means that the officers must be removed in the way they are appointed. Now, when gentlemen tell me that I am going to construe the constitution, and may interpret it in a manner which was never intended, I am very cautious how I proceed. I do not like to construe over much. It is a very delicate and critical branch of our duty; and there is not, perhaps, any part of the constitution on which we should be more cautious and circumspect than on the present.

I am well authorized to say, that the mingling the powers of the President and Senate was strongly opposed in the convention which had the honor to submit to the consideration of the United States, and the different States, the present system for the Government of the Union. Some gentlemen opposed it to the last;

JUNE 19, 1789.]

Secretary of Foreign Affairs.

H. OF R.

and finally, it was the principal ground on which they refused to give it their signature and assent. One gentleman called it a monstrous and unnatural connexion, and did not hesitate to affirm it would bring on convulsions in the Government. This objection was not confined to the walls of the convention; it has been the subject of newspaper declamation, and perhaps justly so. Ought not we, therefore, to be careful not to extend this unchaste connexion any further?

Gentlemen who undertake to construe, say that they see clearly that the power which appoints must also remove. Now, I have reviewed this subject with all the application and discernment my mind is capable of, and have not been able to see any such thing. There is an agency given to the President in making appointments, to which the Senate are connected. But how it follows that the connexion extends to the removal, positively I cannot see. They say that it follows as a natural, inseparable consequence. This sounds like logic. But if we consult the premises, perhaps the conclusion may not follow. The constitution opposes this maxim more than it supports it. The President is appointed by electors chosen by the people themselves, or by the State Legislatures. Can the State Legislatures, either combined or separate, effect his removal? No. But the Senate may, on impeachment by this House. The judges are appointed by the President, by and with the advice and consent of the Senate; but they are only removable by impeachment. The President has no agency in the removal. Hence, I say, it is not a natural consequence, that the power which appoints should have the power of removal also. We may find it necessary that subordinate officers should be appointed in the first instance by the President and Senate. I hope it will not be contended that the President and Senate shall be applied to in all cases when their removal may be necessary. This principle, sir, is not pursued by the Senate themselves. In the very bill that is now before this House, sent down by the Senate, to establish the judicial courts of the United States, it is directed, that a marshal shall be appointed for each district, who shall have power to appoint one or more deputies; and these deputies are to be removable from office by the judge of the district court or the circuit court sitting within the district, at the pleasure of either. It is not said they shall be appointed by the marshal, who may remove them at pleasure; which ought to be the case if the maxim is true, that the power which appoints necessarily has the power of removal. But I dispute the maxim altogether; for though it is sometimes true, it is often fallacious; but by no means is it that kind of conclusive argument which they contend for.

Gentlemen proceed in their constructions, and they ask, why did not the convention insert a clause in the constitution, declaring the removal to be in a manner different from the appointment? They tell us that it must naturally

have occurred to them, and that here and there was the proper place to insert such a clause. Now, let me ask them also, if theirs is the natural construction, why the convention, after declaring that officers should be appointed by and with the advice and consent of the Senate, did not add, to be removed in like manner? It must have as naturally occurred to insert the one as the other. It is very possible that such a clause might have been moved and contended for; but it is hardly probable it would meet with success from those who opposed giving the Senate any check or control whatsoever over the powers of the President, much less was it probable that those gentlemen who opposed it there, should wish to enlarge it by construction; for my part, I hope never to see it increased in this way. What of this nature is brought in by the letter of the constitution, let it be there; but let us never increase evils of which we have some right to complain.

A gentleman asks, where is the danger of mixing these powers, if the constitution has already done it? That gentleman knows, that it has always been viewed as an evil; and an association of the legislative and executive powers in one body has been found to produce tyranny. It is a maxim among the wisest legislators not to blend the branches of Government further than is necessary to carry their separate powers into more complete operation. It was found necessary to blend the powers to a certain degree; so far we must acquiesce. The Senate must concur with the President in making appointments, but with respect to the removal they are not associated; no such clause is in the constitution, and therefore I should conclude that the convention did not choose they should have the power. But what need was there that such a clause should be there? What is the evil it was intended to guard against? Why, we are afraid the President will unnecessarily remove a worthy man from office, and we say it is a pity the poor man should be turned out of service without a hearing; it is injurious to his reputation; it is his life, says the gentleman from New Hampshire, (Mr. LIVERMORE;) it is cruelty in the extreme. But why are we to suppose this? I do not see any well-grounded apprehension for such an abuse of power. Let us attend to the operation of this business. The constitution provides for—what? That no bad man should come into office. This is the first evil. Hence we have nothing to dread from a system of favoritism: the public are well secured against that great evil; therefore the President cannot be influenced by a desire to get his own creatures into office; for it is fairly presumable that they will be rejected by the Senate. But suppose that one such could be got in, he can be got out again in despite of the President. We can impeach him, and drag him from his place, and then there will be some other person appointed.

Some gentlemen seem to think there should be another clause in the constitution, providing

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

that the President should not turn out a good officer, and then they would not apprehend so much danger from that quarter. There are other evils which might have been provided against, and other things which might have been regulated; but if the convention had undertaken to have done them, the constitution, instead of being contained in a sheet of paper, would have swelled to the size of a folio volume. But what is the evil of the President's being at liberty to exercise this power of removal? Why, we fear that he will displace not one good officer only, but, in a fit of passion, all the good officers of the Government, by which, to be sure, the public would suffer. But I venture to say, he would suffer himself more than any other man. But I trust there is no dearth of good men. I believe he could not turn out so many, but that the Senate would still have some choice, out of which to supply a good one. But, if even he was to do this, what would be the consequence? He would be obliged to do the duties himself; or, if he did not, we would impeach him, and turn him out of office, as he had done others. I must admit, though, that there is a possibility of such an evil, but it is a remote possibility indeed.

I think gentlemen must concede, that, if there should be such a passion, such a resentment as I have supposed between the President and the heads of departments, the one or the other ought to be removed. They must not go on pulling different ways, for the public will receive most manifest injury. Therefore it mitigates the appearance of the evil by suffering the public business to go on, which, from their irreconcilable difference, would otherwise be at a stand.

But some gentlemen seem to think this is not the only evil that ought to be apprehended. They say it would increase the power of the President to a most alarming degree indeed; that the preservation of the liberties of our country would be rendered impracticable; that an accumulation of powers in the hands of the President would establish a tyranny; that America would no longer furnish that asylum to persecuted freedom which she was wont to do. But is all this strictly true? We have seen in our day the sword, and almost every power, exist in the hands of one man, without destroying the happiness of this country. He was the head of the Church and State; the fountain of honor; could appoint and remove all the officers of this Government; yet this man, with the aid of many millions of pounds sterling, with a numerous host of men, and perhaps the finest navy in the world, had it not in his power entirely to ruin this country. The difference between the two characters is great indeed. A man elected for but four years, and an hereditary Monarch—subject to impeachment, and ever dependent upon the will of the people for his re-election. Checked and surrounded as his powers are, I see little cause for apprehension. In the honest integrity of my

heart, I confess I see nothing to alarm my fears on this subject.

There was a turn given to this clause, which seemed to make it appear that we ought to agree to strike it out. It is said, that the power is already given by the constitution, and therefore it is unnecessary to retain the clause in the bill. Others again contend, that we are giving the power by construction to the President, which we ought not to do. The gentleman from Connecticut (Mr. SHERMAN) tells us, we should leave it to the President to discover what is his duty on this subject. At first there appeared great plausibility in this observation, and I was inclined to favor that opinion; but on further reflection, it appears to me as bad a sentiment as any that has been suggested. The great division of this committee proves that it is a question not so easily resolved as others which have heretofore engaged our attention. Now, if we, who are a disinterested branch, find so much difficulty in determining the point, how much more will the President and Senate, who are parties concerned, be perplexed in the decision. Gentlemen may say, that the Senate would choose to have it left to the parties themselves. Then why should we interfere? But I am persuaded, when the Senate perceive we are disinterested parties, they will respect our decision. I feel a most profound respect for that honorable body, and I never wish to see them disturbed in the exercise of any part of their power; but I do conceive they will receive with pleasure our opinion on this question; and therefore, I am inclined to give it. We are fellow-laborers together, endeavoring to raise on the same foundation a noble structure, which will shelter us from the chilling blasts of anarchy, and the all-subduing storms of despotism. Hence, I flatter myself they will receive this assistance kindly at our hands; but if they are otherwise inclined, they have the power to counteract what we may do. But I would by no means retreat at this time from a decision; I would let the bill go forward with our full determination; the Senate will receive it with candor. Gentlemen say it properly belongs to the Judiciary to decide this question. Be it so. It is their province to decide upon our laws; and if they find this clause to be unconstitutional, they will not hesitate to declare it so; and it seems to be a very difficult point to bring before them in any other way. Let gentlemen consider themselves in the tribunal of justice, called upon to decide this question on a mandamus. What a situation! almost too great for human nature to bear, they would feel great relief in having had the question decided by the representatives of the people! Hence I conclude, they also will receive our opinion kindly.

Mr. SYLVESTER.—In the debate of yesterday, sir, we were entertained with the marvellous, the sublime, and the picturesque. We had monsters with heads and without heads; we had the powers of the Government distorted

JUNE 19, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

into every shape. But this, sir, is not the proper treatment which the important question demands. We ought, sir, in my opinion, to consider this subject seriously, as it relates to its constitutionality and expediency, and not to suffer our deliberations to be warped on either hand by too great apprehension or self-sufficiency.

It has been insisted upon by the gentlemen against the clause, that we should not go into a construction of the constitution, because we have no right to infer any thing from it in this way; yet all their arguments are founded upon construction and implication, and lead to the very object which they caution us to avoid. But I will agree with the gentlemen in the opposition, that if it can be demonstrated that our interpretation is contrary to the true meaning of the constitution, we ought not to proceed to the decision; but if it is a doubtful point, (and it appears so by the controversy we have had, and by the contrariety of sentiments advanced,) I hold it to be prudent and wise to come to a decision.

The question, to be sure, has had a thorough, if not tedious investigation. But I do not repine, because I conceive the time has been well spent, as it now appears clearly that there is nothing in the clause contradictory to either the letter or spirit of the constitution. This being demonstrated to satisfaction, the only question which remains is, whether we shall give our opinion by declaration or implication? With respect to a declaration, I would observe, that if the power of removal is lodged in the President by the constitution, it is useless for us to interfere; and if it is not lodged there by the constitution, can we give it? It does not appear to be expressly given by that instrument; but there is nothing in contradiction to it.

I lay it down, then, as a positive case, that the President is invested with all executive power necessary to carry the constitution, and the laws passed in pursuance thereof, into full effect, so far as these powers are unchecked and uncontrolled by express stipulations in the constitution. If the exceptions, with respect to appointments, had not been made, the President would have had that power, as well as the power of removal. In the first, his power is eclipsed by the interference of the Senate; but, in the last, the manifestation is clear. Both these powers being inherent in the executive branch of the Government, must remain there; yet the Congress have the power to give them ground to act upon. The constitution declares, that Congress shall have power to make all laws necessary and proper to carry into execution all the powers contained therein. Now, the first power of nomination and appointment could not be exercised, unless Congress were to call offices into existence by law; for particular offices are not mentioned in the constitution; they are to be created by law. If, then, we are authorized to create them, we are warranted to modify them in the same way as has

already been fully explained by gentlemen who have gone before me.

Gentlemen have urged, that those who have the power to appoint may remove. This doctrine may be extended further. Those who have the power to create may also destroy. Now, I would infer from this, that the House having the power lodged with them of creating offices, and passing all laws necessary to carry the constitution into effect, they have a right to declare the tenure by which the office shall be held. Having then the power to create offices, and discharging from office, they have a right to delegate the exercise of it to whom they please. And to whom can this be more properly entrusted than to the President of the United States?

Another clause in the constitution gives the Congress power to vest, by law, the appointment of such inferior officers as they think proper in the President alone. If the officers to whom this bill relates are of such a nature, (and this seems to some gentlemen a doubtful point,) we have power to invest the President at least with the removal.

It is insisted upon, that there can be no appointment but by and with the advice and consent of the Senate, nor discharge but in the same way. What does this lead to? The President is the whole executive branch of Government; and yet you so fetter him, by attaching to him a legislative branch, that he has little or no agency in displacing a public officer who holds his commission of him alone. Another gentleman contended, that impeachment was the only way to remove an officer. Many gentlemen, who oppose this clause, oppose his principle; but they should remember, that the mode of connecting the Senate to the President in discharging from office, is little or nothing different from an impeachment; and if this is the only way of removing officers, they have all of them an inheritance in office. For this reason, both their doctrines prove too much; consequently, they prove nothing.

Let us consider the expediency of establishing the doctrine, that officers have a tenure in office for life, or during good behavior, which it is said will be the case if no time is limited in the bill. All officers will have to be impeached; this will require a vote of this House, and a trial before the Senate. If the necessity for dismission is pressing, clearly the mode by impeachment is not likely to answer the purpose. It can never be thought expedient to establish a doctrine so big with mischief, and likely to drive the whole Government into confusion. It is not the doctrine of the constitution, and therefore ought not to be sanctioned. If it was to be found there, however inconvenient it might be, we should put up with it; because I do believe there is not a member in this House who is disposed to violate a constitution he has sworn to support. I trust, and am fully persuaded, we shall not do it by our decision. Surely it will not be any longer contended

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

that we have no right to give our sentiments? We certainly have that right, for without such a power we could pass no law whatever. It is certain that the Judiciary will be better able to decide the question of constitutionality in this way than any other. If we are wrong, they can correct our error; if we are right, the question will be decided at a time when no ill can result from factious or contentious parties; all is now still, and a favorable disposition to listen to reason prevails.

Conceiving, therefore, that we do not infringe the constitution, and that the public good requires it, I am in favor of making the decision, and enabling the Executive Magistrate to exercise the duties vested in him, whenever he supposes the good of his country requires such an exertion: observing that, if this power was anywise obnoxious to the constitution, I should be opposed to it.

MR. STONE.—It is hardly to be expected, Mr. Chairman, that any thing new can be offered at this stage of the debate; the committee will therefore believe that the motives for delivering our opinions do not arise so much from an expectation of being able to convince, as from a desire to assign the reasons upon which our vote is founded.

I consider this as a very important question, the decision of which will form a leading feature in all our future conduct, and give the tone to the administration of the Government. But if the evils we apprehend should absolutely arise from our determination, I do not conceive, with some other gentlemen, that we are inevitably ruined. I believe the people can apply a remedy; and I have no doubt but they have sense and resolution enough for that purpose.

The people of America, so far as they are included in a majority, and so far as they have expressed their sense of amendments, have adopted this constitution. It was not adopted because they considered it perfect, or because they supposed it would become so, even if all their amendments took place; but because they supposed it would more effectually answer the purposes of union than any other. All the objections that were made to the constitution, went to secure the liberties of the people. I believe, and so far as my information goes it is true, that there is no State but thinks the General Government sufficiently efficient. We who are to administer the Government, ought to carry it into execution agreeably to that principle. We must, independent of any consideration that the powers are too large here, or too small there, judge impartially of all the component parts of the Government; and however our affections may be drawn to the one part or to the other, we must preserve the constitutional connexion and balance. It is not, according to my idea, that because the people have given a gross amount of power, they are indifferent as to the disposal of it, or that the Legislature may distribute it as they please. What makes a free

Government? The equal power of the three branches of the Legislature, or two legislative and one executive; these acting independently and controlling each other in a precise, constitutional manner. If these powers are blended or assimilated in one body, it becomes a tyranny. Then you ought to keep the balance as the constitution directs, not as fancy dictates.

I should be extremely unhappy if I could believe that the association of the powers of the President and Senate is so monstrous as some gentlemen conceive. If it is true that all Governments are odious and dangerous which associate the legislative and executive powers in one body, I should be the last man to support this; because in all the great business of the executive department, in every thing serious and affecting the Government, there is not only a temporary association, but a continued one. The first and most interesting communication of these powers is of a continued duration. The appointing officers is but a temporary connexion; but in making treaties, in which all our concerns are at stake, the connexion is durable. Is not the same information necessary for two-thirds of the Senate, as for the President, as they are to advise him in the negotiation, and concur with him in the ratification? And how can this necessary information be obtained, but by a connexion with the Executive Magistrate? Hence, if the association of the executive and legislative powers in one body be odious and dangerous, we are in a dangerous and odious situation under this Government.

What portion of power have Congress? I suppose it is necessary to keep up the balance between the Executive Magistrate and the Senate. What is this balance? It is laid down in the constitution that the President shall nominate, and the Senate approve; we are bound, then, to carry this balance throughout all the subjects to which it relates. If the President has the sole power of removal, you destroy the power of the Senate; and though you do not expressly put the power of appointment in the President alone, yet you put it there effectively, because he may defeat, by removal, the joint appointment. Will this be giving the proper balance which the constitution directs? No; it will be directly the reverse.

Suppose the constitution had been so far silent with respect to displacing officers, as to have left it within the power of the Legislature to lay down a rule on that subject. How would you lay down that rule? In favor of the President. Why? Because the Senate has too much power already, and you would give it to the President to equalize the power. This would not be right I conceive; because I believe we are bound to support the intention of the constitution as well as the letter. Suppose we have powers to distribute, what is to guide us in the distribution? Our own caprice? No. Look into the constitution, and see where like powers are distributed. If I found powers distributed, I would follow the example with a

JUNE 19, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

similar distribution, and not impose sentiments of my own for a guide, when I had more certain and proper ones to lead me.

A separation of the powers of Government, between the legislative, executive, and judicial branches, is considered as the proper ground for our opinion, and a principle which we must admit. Are we to get it brought into the constitution? For I apprehend there is no such principle as a separation of those powers brought into the constitution at present, but to the degree which an examination will appear to exist. Is there any express declaration, that it is a principle of the constitution to keep the legislative and executive powers distinct? No. Has the constitution in practice kept them separate? No. Whence is this idea drawn? That it is a principle in this constitution, that the powers of Government should be kept separate? No sure ground is afforded for it in the constitution itself. It is found in the celebrated writers on government; and, in general, I conceive the principle to be a good one. But if no such principle is declared in the constitution, and that instrument has adopted exceptions, I think we ought to follow those exceptions, step by step, in every case to which they bear relation.

It has been granted by every gentleman, that dismissal may take place without trial. Some gentlemen have agreed that it ought to take place by those who appoint. Though this seems to be admitted as a pretty good general rule, no reason has been assigned for it. I believe that one may be adduced. Comparing small things with great, I believe a man in New York would find the truth and reason of the thing, if the case was brought home to him. A man is employed as an agent to manage our concerns; and if no limitation is given to the agency, and we are displeased, we can dismiss the agent if we think proper. I believe an attorney is always removable at the will of his employer. Although there is not a statute that has laid down the rule in express terms, yet it is as much the law of the land as if it had been declared by an absolute statute. It follows, then, upon the same principle, that the Government has a right to remove its officers in every case, but where express limitations are made.

It has been said, that if we have a right to dismiss, the right vests in the President, because he nominates and appoints. It has been said, that if the Government has the power, it belongs to the President and the Senate. Whichever of these assertions is true, it is founded on implication. Now, the clearest implication, and the one most exactly conformable to the constitution, is to give it to the President and Senate. Who, by the constitution, is to judge of the qualifications of the man, and his fitness for office? The Senate. The President only nominates a person for their consideration; they judge upon the propriety of the nomination. Go through the constitution, from the beginning to the end, and you will

not find a single instance where the President has solely the power of appointing any man to an office under the United States. This regulation may have been wrong; the convention may have been misled on this point; but still it is the constitution. Perhaps the convention conceived, that establishing a power in the Executive to choose and control the great officers of Government, was a power too dangerous to be vested in a single person; therefore, throughout the whole constitution, they never once invested the President with this power. Such must have been their idea on the subject, or why did they direct the Legislature to vest, as they should think proper, the appointment of inferior officers in the President alone, heads of departments, or courts of law? If it is proper to construe the constitution by implication, we should carry the implication throughout: and hence we show the President is, in no instance, entrusted with the power of appointing to office.

But it is said, that the power of removal is naturally and necessarily vested in the President as Executive Magistrate, and cannot be taken from him. This is a very important question; but the affirmative is founded on implication. I never was fond of implication; it is but a doubtful way of determining the sense of any instrument. If the Executive Magistrate has not the power of displacing officers, then the clause is wrong; for you grant a power which you have no right to grant. If the President has the power by the constitution, does not the House assume a power of granting what is altogether unnecessary? Is this not declaring that it is a doubtful point, and, therefore, we will grant the power; we will place it in the hands of the Executive, because we conceive it partakes of the nature of that department, not knowing whether the constitution ever vested us or him with such authority? It has been contended, on some former occasions, respecting a bill of rights, that if you did not designate all the rights of human nature, you gave up those which were omitted. If you undertake in this bill to grant a power, you imply that you have the power to grant, or withhold, at discretion.

Now, if the position, that all executive power vests in the President, is true and solid, the extension of it can never run into absurdity. If gentlemen determine executive powers by implication, however dangerous the ground may be, we must go through; the Congress must have all legislative power; all the departments of Government must have the powers which implication construes to belong to them. Again, if the power of removal is not incidental to the power of choosing, we must go through. There is a variety of clerks, commissioners of commerce, of the mint, of the army and navy; who is to appoint these officers? The constitution tells you, in some cases the President and Senate; and in others, the President alone. This House appoints its own officers; but, in every case, the President has the power of removal;

H. or R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

because the power is incidental to the Executive. How are we to get rid of this absurdity? Besides, if all executive power is vested in the President, what right has this House to prescribe him rules to interfere in forming executive officers? The Executive can better form them for itself. If implication prove the President purely executive, it is inconsistent to modify. The gentleman from Virginia says, we may limit the duration of this officer. But why do this? The executive powers are continuous. Why are we to suspend their operation? But what would signify this interference of the Legislature, if it could produce no good? If the present office is wholly executive, the House has no right to meddle in the business.

I believe we shall be deprived of the safe mode of getting rid of this officer, and have one introduced that will be subversive of every authority which the constitution vests with respect to appointments in the President and the Senate.

If gentlemen will tell us that powers, impliedly executive, belong to the President, they ought to go further with the idea, and give us a correct idea of executive power, as applicable to their rule. In an absolute monarchy there never has been any doubt with respect to implication; the monarch can do what he pleases. In a limited monarchy, the prince has powers incident to kingly prerogative. How far will a federal Executive, limited by a constitution, extend in implications of this kind? Does it go so far as absolute monarchy? Or is it confined to a restrained monarchy? If gentlemen will lay down their rule, it will serve us as a criterion to determine all questions respecting the executive authority of this Government.

My conception may be dull; but telling me that this is an executive power, raises no complete idea in my mind. If you tell me the nature of executive power, and how far the principle extends, I may be able to judge whether this has relation thereto, and how much is due to implication.

If I look to the constitution, or nature of things, I should be led to conclude that the body choosing agents has the power of dismissing them; because the power naturally lodges in those who have the interest and management of the concern. The executive business of this officer is under the superintendence and management of the Senate, as well as the President. Treaties with foreign nations must be conducted by the advice of the Senate, and concluded with their consent. Hence results a necessity in that body's having a concern in the choice and dismissal of the Secretary of Foreign Affairs. I do not see any other sure or safe bottom on which the question can be determined.

I will just advert to a few arguments which go to prove that officers, once appointed, ought not to be removed in the manner contended for, without insisting upon them at this late period of debate.

In the nature of things, in all appointments, there is an implied contract: on the part of the officer, that he will perform the service; and on the part of those who appoint him, that he shall have an adequate reward. In the engagement of the officer, qualities, commensurate with the duties, are required: in the reward, the dignity of the station and the qualities of the officer ought to be estimated. And although, in this engagement, an officer may dispense with certain forms of trial, yet he can never surrender a natural right; he cannot engage to be punished without being guilty, or dismissed without being useless. It has been well observed, that the appointment ought to cease when the causes of it no longer exist; but it is equally clear that it ought to continue as long as the reasons remain. And although, in public and private life, it may be proper to discharge an agent without divulging the reason; yet clearly a good reason ought to precede the dismissal, because, otherwise, you do an act of injustice by a breach of contract.

And if we have now the power to make the rule, we ought to make it conform to these principles. Let justice and reason operate as profitably, as secretly, and as quickly as may be; but let not their agency be superseded by the passions we disapprove.

In the scale of responsibility this power has been weighed, and determined to be lodged with the President on that account. But wherefore? I consider the Senate more responsible than the President. The Senate must keep a journal of their proceedings; their acts are manifested to the power appointing them, who are always in existence. The electors of the President meet for a moment, to make their choice: but will the conduct of a President be investigated? Will they have materials to form their judgment upon? Or will their existence bear an extension sufficient for any other purpose than barely to meet in their respective States, and vote by ballot for two persons, and to make out a certificate of their proceedings? Is here the same degree of responsibility? When a Senate is appointed, the Legislatures of the respective States will keep a watchful eye over their conduct; and if they are displeased with a Senator, they will not hesitate to turn him out; they can effect this on information and deliberation. The State Legislatures are in the habit of discussing questions respecting the general good; they will discuss the propriety of the Senate's conduct; while the electors of the President are too widely spread, and too short a time assembled, to effect a purpose of this nature.

It has been judged by some gentlemen a dreadful affair that the President should become a party before the Senate; it would degrade his dignity. It was said, the Judiciary would be pleased if this weighty question could be taken off their hands. To what a height do gentlemen exalt that character in their own minds! How far above the level of the people.

JUNE 19, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

when they consider it derogatory to his dignity to institute an examination into the conduct of an officer next himself in rank! when they consider it almost above human nature to determine a question of right between the President and a great officer of the United States! If gentlemen have an idea that this character is to have such a degree of elevation above the community, it is time to think of restraining his power. Upon what does power depend? Not upon the strength of arm, but opinion. If gentlemen will exalt a character above themselves, call him what you will, he will be possessed of monarchy. In this enthusiasm of confidence, we seem to forget the confidence we have in the President, Senate, and great officers of Government in appointments, as compared with the confidence in the President in removals. Why, if the powers of inquiry, judgment, impartiality, and discernment, stipulated by the constitution in the President and Senate to select good men and the first characters into office, will you place more confidence in the President alone than in the Senate and heads of departments together? This is inconsistent with the confidence which the constitution reposes in the Executive.

We have expended our treasure, our blood, and our time, to very little purpose, if we do not think that liberty and safety exalt the human species. From the meanest to the highest rank in life, the propriety of conduct arises from the security and independence of situation. I will not pursue the argument further, than to observe, that from these principles it is, that there is more liberty and nobleness of soul in a common man in America, than in a Minister of State in Turkey; but if the principles for which the advocates of this clause contend are adopted, it will give this influence. If a man is a candidate for an office, held by the tenure of will and pleasure, he must examine his soul, and see if there are qualities in him to enable him to cringe, and submit to the arbitrary mandate of the President; if he finds these qualities in his disposition, he is suited for the business; but if the constitution is to be justly administered, and he finds himself disposed to sacrifice to the pleasure of the Chief Magistrate, although he possesses qualities which, as I said before, suited him for his employment, yet he is unfit for the office.

MR. VINING.—I am impressed with the importance and magnitude of the present subject, equally with other gentlemen.

In the body politic, Mr. Chairman, the executive authority is a marked feature; and the question in my mind is, shall we deform it by displacing it, or give it that fixture which the constitution intended, and which a due regard to symmetry and proportion requires. It has been well demonstrated that the various powers of Government ought to be exercised by distinct bodies, in order to provide a happy administration, and secure to the nation the blessings of freedom; or if they are any way

blended, it ought not to exceed that degree necessary to execute good government.

But gentlemen tell us that this is not the language of the constitution. My honorable friend from Georgia (Mr. JACKSON) has gone so far as to ask us for an instance in any Government, where this principle obtains. To investigate this question fully, would lead us into an extensive field of historical research. I will, therefore, in order to save time, admit that, in most countries, this division of power is faintly defined. Yet, in Great Britain, where this doctrine is strongly advocated, the lines of distinction are deeply marked. It is true, the Executive authority is blended with the Legislative; but how far does this extend? No further than to assure a salutary administration of that form of Government. But, say gentlemen, the power which Great Britain leaves in her Executive Magistrate would, in this country, be an alarming subject. I am pleased with the great concern manifested by honorable gentlemen for the preservation of liberty; and admit with them, that it is involved in our decision. But suffer me to explain why I think so.

There have been few Governments overthrown by the independence of the Executive. What are the consequences of clipping its wings? Anarchy and confusion, and a struggle between the Legislative and Executive, in which the latter is generally sacrificed on the altar of despotism. Thus, I conceive, the liberty of the people to be involved in our decision. If by legislative encroachment we weaken the Executive arm; we render it incapable of performing the functions assigned it by the constitution, and subject it to become an easy prey to the other branches of the Government.

Gentlemen may tell us, that the Executive, with the command of the military, may acquire uncontrolled power. Perhaps some experience may authorize the inference. But, let me ask, what has been the cause? I take it that adequate powers have been denied the Executive, or taken from it. In either case, the Executive must have exercised authority not legally vested, in order to continue the operations of Government. And being once accustomed to assume power, the habit is easily confirmed; so that shortly the aggregate of power assembles on the ground where you refused a just participation. Now, if you allow a just distribution of the powers of the Government, you leave the Executive no pretext to justify an unconstitutional seizure on its part. The King of Great Britain has the command of the army and navy; but have those engines of despotism been called into action to wrest from the other branches of Government, or from the people, powers not legally vested in the Crown? The answer must be in the negative. And why has this not been done? Because the constitutional powers of the British monarch are sufficient to answer the purposes of the Government.

Let us turn to Sweden and Poland for an illustration of this doctrine; for examples to

H. or R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

convince us of the dangerous tendency of denying the Executive a due proportion of power. In Sweden, the limited power of the King was nearly annihilated by an aristocracy. And what has resulted from that circumstance? Why, at this moment, you find the monarch compelled, for the security of his nation, to assume all the powers of despotism; and you behold the nation submitting cheerfully to the event, nay, joining the throne in establishing an arbitrary Government; by which all their rights as men and privileges as citizens are immolated at the shrine of prerogative.

The legislative authority in Poland belongs essentially to the Diet; though the Senate is the soul of this body, she retains royalty without fearing her Kings. The object of the Poles has been to guard against what was called the encroachments of the throne. It is not (said they but a century ago) a master that we want, it is only a chief; some went further, and asserted, that a free people wanted no chief at all.

This republican language became the prevailing style in all assemblies of state. And to what has it led? Placed under the absolute Government of a single person, they continually complained of the weight of the yoke. Left to the enjoyment of liberty, they knew not how to use it for their own good; and by abridging the efficacy of the Executive, they fell into intestine commotion, which delivered them up an easy prey to their ambitious neighbors. Are we to learn nothing from these dreadful examples? Will gentlemen persist in contracting the constitutional powers of the Executive? Will they, against their own principles, acquiesce in blending executive and legislative powers? Far off may that period be, when the Congress of the United States shall shorten the arm of her Executive. Success in such a measure will forerun the obsequies of freedom.

Mr. Chairman, I am confounded with the diversity of arguments used on this occasion. I know not how to reply. Some gentlemen say it is wrong, it is cruel, to take away the wealth, the reputation, (and this word is synonymous, in the apprehension of others, with life,) from your public officers without an impeachment: and yet, gentlemen on the same side of the question admit, that an officer may be properly removed by the President, by and with the advice and consent of the Senate, or, in other words, without impeachment.

Will gentlemen view for a moment the effect of their arguments? Suppose the President desires to remove a bad officer, and the Senate refuse; what is to become of your impeachment? I say, sir, that the House of Representatives, combined with your Executive, will be unable to procure the dismission of an officer who is hourly betraying his trust, and that in the most open and flagitious manner. If your proofs are clear as a mathematical demonstration, it is all in vain; your tribunal, which is to decide upon the impeachment, has prejudged the question. I will, nevertheless, on account of the expected

patriotism of that body, admit, that there is a possibility of obtaining justice. But are the interests, the rights, and happiness of this great community, to depend upon a bare possibility alone, when our constitution has provided safety and stability to the public welfare? We say that the mode of removing bad or obnoxious officers by impeachment is tedious and uncertain at best; but it is not to be relied on, if the Senate are connected with the President in the general power of removing; for it would ever be in the power of a faction, or a party in the Senate, so to clog the wheels of our political machine, as to render its motions slow and unavailing. And this they could do under an impenetrable veil; they could do it without being in the least degree responsible. Let not gentleman talk of their responsibility, and compare it with the President's. We do not predict shadowy and chimerical evils. What we fear has actually happened; the mischief of precedent is already established; the Senate declare their concurrence in appointments, by ballot. In this secret mode, through cabals, through intrigue, they will be able to defeat every salutary agency of the Executive, in seeing his instruments perform their duty.

Mr. STONE.—Do I understand the gentleman? Does he tell us that the Senate decide by ballot? I should be glad to ascertain the fact.

Mr. VINING.—They did so yesterday. I presume I need not mention the consequences of such procedure. But where is the responsibility when a man can hide his vote? If they do an obnoxious thing, they will say, I did not vote so; and shift the blame from themselves. Where will you go to ascertain the fact? Into the dark recesses of a ballot-box, and there you will seek for tickets, whose hand-writing is to serve as a clue to this business of mystery. But, behold! the tickets are torn, and scattered to the wind.

This Government, Mr. Chairman, let us remember, rose like Hercules' brawny frame from its cradle. Let us avail ourselves of the wisdom and experience of former ages. Let us aggregate the knowledge of every nation, to give its nerves their vigor, and each muscle its due strength; that, like that demi-god, it may struggle, even in its infancy, the malignant and venomous efforts of its subtle invaders.

Who, let me ask, is the Chief Magistrate under this Government? The President. What are his duties? To see the laws faithfully executed; if he does not do this effectually, he is responsible. To whom? To the people. Have they the means of calling him to account, and punishing him for neglect? They have secured it in the constitution, by impeachment, to be presented by their immediate representatives; if they fail here, they have another check when the time of election comes round. But what are the duties, and what is the responsibility of the Senators? In their legislative capacity it is not intended that they shall assist the President; it is an additional executive authority. Is

JUNE 19, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

it compatible with the principles of the constitution, that the Legislature should assume executive power, or is it done in order to make itself responsible? Surely not. But if it was admissible, what degree of responsibility is acquired through the Senate? They are not the representatives of the people; they are the representatives of the State sovereignties, as was well observed by the honorable gentleman from Pennsylvania, (Mr. SCOTT;) who are nothing less than accountable to the people. They may have a policy to pursue not altogether consistent with the *salus populi*, and are only responsible to the State sovereignties.

The gentleman from Maryland (Mr. STONE) compares the point in question with that of an attorney; for my part, I do not conceive the application well made. The Senate are combined with the President to aid him in the choice of his officers. The officers are not the agents of the Senate; they do not act for the Senate; they act for the Executive Magistrate. If you give the Senate a power in the removal, you give them an agency in the executive business which the constitution never contemplated. If, therefore, the honorable gentleman's arguments mean any thing, they mean that the Senate ought to have complete power over the attorney of the President.

Mr. STONE said, that the gentleman did not seem to understand his general principle, that the power which appoints is naturally vested with power over the agent. He by no means admitted that the business of the Secretary of Foreign Affairs was to be done exclusively for the President; he conceived the Senate was constitutionally vested with power over that department.

Mr. VINING.—If I have misapprehended the gentleman's argument on this point, I will waive my reply, and proceed to what seems to assume a more serious appearance. It is contended, that if the constitution does not vest the power of removal in the President, we have no right to give it. The constitution authorizes a complete Government, and leaves it to the Legislature to organize it by creating the necessary offices. The power of establishing offices implies complete power over them, and gives to Congress a right to form them on such principles as shall appear to be most conducive to the public good. To establish officers immovable, is not contemplated by the constitution but in the case of the judges. If they are removable, Congress have authority to declare by whom, unless some express provision on this head was made in the constitution. No express provision being made, it remains for this House to declare their sentiments. I will not recapitulate the arguments which were well urged by the gentleman from Virginia, (Mr. MADISON,) to show that if the constitution had made express provision, there can be no impropriety in declaring it by law.

Upon the whole, it appears to me, Mr. Chairman, that the object of every gentleman on this

floor is the same, however various and diversified the roads we pursue to attain it; from which opinion, I am led to conclude, that however a misguided zeal may terrify us with alarms, we shall coolly and deliberately unite in carrying into complete operation the legislative and executive powers vested in this Government, as the only means, under heaven, of securing to ourselves and posterity the blessings of freedom and tranquillity.

Mr. GERRY.—If we take this step, Mr. Chairman, we shall have to take another, which may shake the Government itself. How judicious this may be at this time, I leave the advocates of the clause in question to determine.

The gentleman opposite to me from Georgia (Mr. BALDWIN) has asserted, that we mean to put a construction upon the constitution; and that the clause is only a violation of our construction, and not of the constitution itself. I think he is wholly mistaken with respect to the opponents of this clause. I can speak for myself. I am decidedly against putting any construction whatever on the constitution, for several reasons. Sir, we are not the expositors of the constitution; but if we were the expositors, we ought to give our exposition by a declaratory act, and not foist it in where no one would ever look for it. But if it were done by a declaratory act, I conceive it would be impossible to draw the line at which declaratory acts should stop. Hence we should alter the constitutional mode of amending the system of Government. Another difficulty would also arise: the judges are the expositors of the constitution and the acts of Congress. Our exposition, therefore, would be subject to their reversal. In this way the constitutional balance would be destroyed; the Legislature, with the Judiciary, might remove the head of the Executive branch. But a further reason why we are not the expositors is, that the Judiciary may disagree with us, and undo what all our efforts have labored to accomplish. A law is a nullity, unless it can be carried into execution; in this case, our law will be suspended. Hence all construction of the meaning of the constitution is dangerous or unnatural, and therefore ought to be avoided.

This is our doctrine, that no power of this kind ought to be exercised by the Legislature. But we say, if we must give a construction to the constitution, it is more natural to give the construction in favor of the power of removal vesting in the President, by and with the advice and consent of the Senate; because it is in the nature of things, that the power which appoints, removes also. If there are deviations from this general rule, the instances are few, and not sufficient to warrant our departure on this occasion. We say our construction is superior also, because it does not militate against any clause of the constitution; whilst a contrary construction militates against several, and, in some respects, renders them mere nullities.

The gentleman from Virginia (Mr. MADISON) dwells strongly on the necessity of keeping the

H. of R.]

Secretary of Foreign Affairs.

[JUNE 19, 1789.]

departments of Government separate and distinct. What does he mean? Does he infer, that there is not a natural affinity between the power of appointing and removing, and therefore they ought to be kept separate? I presume not. He will admit there is such an affinity. Then I would ask, in what character does the Senate act in case of appointments? They act as an advisory and executive body. If they are executive in the act of appointing, there is no clashing of powers, consequently no blending in the case of removal. But if gentlemen say, that, in appointments, the executive and legislative powers are blended, their position is contrary to what they say are the true principles of the constitution.

We have the power to establish offices by law; we can declare the duties of the officer; these duties are what the Legislature directs, and not what the President; the officer is bound by law to perform these duties. But this clause militates against the institution itself; for the President is to have the power of preventing the execution; the office, and its duties, are suspended on the pleasure of the President. Suppose an officer discharges his duty as the law directs, yet the President will remove him; he will be guided by some other criterion; perhaps the officer is not good-natured enough; he makes an ungraceful bow, or does it left leg foremost; this is unbecoming in a great officer at the President's levee. Now, because he is so unfortunate as not to be so good a dancer as he is a worthy officer, he must be removed. The Senate, and this House, may think it necessary to inquire, why a good officer is dismissed. The President will say, it is my pleasure; I am authorized by law to exercise this prerogative; I have my reasons for it, but you have no right to require them of me. This language may be proper in a monarchy; but in a republic every action ought to be accounted for. How can you impeach the President, as was said by the honorable gentleman from Virginia, (Mr. MADISON,) for exercising a power vested in him by law? Sir, it is an absurdity to talk of impeachments on such occasions, when the officer is shielded by the law.

There is a consistency under a monarchy of the King's exercising the power of appointment and removal at pleasure. In Great Britain, this is the prerogative of the throne; where it is likewise held a maxim, that the King can do no wrong. The Chief Magistrate under this constitution is a different character: there is a constitutional tribunal, where he may be arraigned, condemned, and punished, if he does wrong. The reason of this distinction I take to be this: The majesty of the people receives an injury when the President commits an improper act, for which they are to receive satisfaction. Kings have a property in Government, and when a Monarch acts unwisely he injures his own interest, but is accountable to none; because satisfaction is due to himself alone. He is established in his office for life; it is an estate to

him, which he is interested to transmit to his posterity unimpaired. The good of the people, upon principles of interest, will be his peculiar study. He ought, therefore, to have power to act in such a manner as is most likely to secure to him this object; then, necessarily, he must have the right of choosing or displacing his agents. There can be no difficulty on this point; but in a confederated republic, the Chief Magistrate has no such trust; he is elected but for four years, after which the Government goes into other hands. He is not stimulated to improve a patrimony, and therefore has no occasion for complete power over the officers of the Government. If he has such power, it can only be made useful to himself by being the means of procuring him a re-election, but can never be useful to the people by inducing him to appoint good officers or remove bad ones. It appears to me that such unbounded power vitiates the principles of the constitution; and the officers, instead of being the machinery of the Government, moving in the regular order prescribed by the Legislature, will be the mere puppets of the President, to be employed or thrown aside as useless lumber, according to his prevailing fancy.

If gentlemen will take this step, they must take another, and secure the public good by making it the interest of the President to consult it; they must elect him for life, or, what will be more consistent still, they must make his office hereditary. Then gentlemen may say, with some degree of truth, that he ought to have the power of removal, to secure in his hands a balance in the Government. But if gentlemen are willing to remain where they are, and abide by the constitution, regarding its true principles, they will not contend that there is a necessity, or even a propriety, in vesting this power in the President alone.

Gentlemen tell us they are willing to consider this as a constitutional question, and yet the bill shows that they consider the constitution silent; for the clause grants the power in express terms. This also implies that the Legislature have a right to interfere with the executive power, contrary to their avowed principles. If the Legislature have not the power of removal, they cannot confer it upon others; if they have it, it is a legislative power, and they have no right to transfer the exercise of it to any other body. So, view this question in whatever point of light you please, it is clear the words ought to be struck out.

Mr. SHERMAN.—I wish, Mr. Chairman, that the words may be left out of the bill, without giving up the question either way as to the propriety of the measure. Many of the honorable gentlemen who advocate this clause have labored to show that the President has, constitutionally, the power of removal. If this be a well-founded opinion, they ought not to let the words remain in the bill, because they are of such a nature as to imply that he had not the power before it was granted him by the law.

JUNE 22, 1789.]

Secretary of Foreign Affairs.

[H. or R.]

If gentlemen would consent to make a general law, declaring the proper mode of removal, I think we should acquire a greater degree of unanimity, which, on this occasion, must be better than carrying the question against a large minority.

The call for the question being now very general, it was put, shall the words "to be removable by the President," be struck out?

It was determined in the negative; being yeas 20, nays 34.

Mr. CARROLL proposed a clause, limiting the operation of the act, under a hope that a time would come when the United States would be disengaged from the necessity of supporting a Secretary of Foreign Affairs. He thought the policy of limiting establishments, in their nature not always necessary, evident to every thinking mind; and he hoped Congress would pursue the principle on this and every similar occasion. He viewed the natural situation of this country as some security against our being drawn into the vortex of European politics; but the present bill afforded a means of attraction which it was prudent to guard against.

Mr. BENSON saw no necessity for the clause, for his mind did not contemplate a time when a Secretary of Foreign Affairs would be an unnecessary or useless officer.

Mr. MADISON thought limitations ought never to be made, unless for special reasons; because it would be destructive of the salutary permanency of the laws, which was an object of no inconsiderable magnitude.

Mr. AMES had no doubt of the good intention of the worthy and honorable mover; but he thought a limitation would be injurious. The United States is a member of the society composed of the assemblage of all the nations of the earth; and it is impossible, as a member of this great society, but that there ever will be a natural obligation to maintain an intercourse with them. If the gentleman discovered that he had mistaken his principle, he flattered himself the motion would be withdrawn.

Mr. STONE expressed himself in favor of the motion, in order that the House might preserve their due share of the Government. If the officer became expensive, and was so much under the control of the President, he would never consent to the repeal of a law which thus extended his influence.

Mr. LIVERMORE thought, with the honorable gentleman from Maryland, (Mr. CARROLL,) that the United States might look forward to a time when the officer would be unnecessary; and, therefore, was in favor of the proposed limitation.

Mr. GERRY.—I am in favor of something of this kind; but I do not see that it is absolutely necessary we should be obliged to re-make our laws every three or four years. This would be giving ourselves much trouble, and causing great expense to our constituents. I do not know but we may manage better in another way. If a gentleman has a carriage and horses,

he may sell the horses and keep the carriage. This will not occasion so much expense: he may buy horses again when he wants them. So I would let the bill remain, but limit the appointment of the officer to a term of years.

Mr. BOUDINOT remarked, that the House always had the officer in their power, because they could limit his salary, or determine it altogether, if they judged proper.

Mr. CARROLL thought the object of his motion favored by the public opinion. His own sentiments were clearly in favor of it. He did not presume to lead in this business, but should submit to the fate of his amendment.

Mr. SEDGWICK was of opinion that the commerce of America would flourish under the new Government, and, as that extended, he apprehended the necessity of maintaining this officer would increase; he should, therefore, be against the motion.

Mr. STONE.—If you make this law permanent, and give permanent salaries, which is very likely to be the case, the House will have no control over this department, unless two-thirds of both Houses acquiesce in the repeal.

Mr. WHITE would move to strike out the clause respecting the salary, and then the House might have the check mentioned by the gentleman from Jersey, (Mr. BOUDINOT.)

Mr. MADISON said, that limiting the bill would abridge a power which the committee had declared to belong to the President; but limiting the officer, as mentioned by the gentleman from Massachusetts, would do so in a still greater degree. He thought the power, with respect to granting salaries, always secured to the House its due proportion of the powers of Government.

Mr. CARROLL withdrew his motion, in order to give an opportunity to the gentleman from Virginia (Mr. WHITE) to make a proposition for striking out the salary clause.

Hereupon, Mr. WHITE's motion for striking out was put and agreed to.

The committee then rose and reported the bill, with the proposed amendments, to the House.—Adjourned.

MONDAY, June 22.

DEPARTMENT OF FOREIGN AFFAIRS.

The bill for establishing the Department of Foreign Affairs, as reported by the Committee of the whole, being taken up by the House, for consideration,

Mr. CARROLL renewed in the House the motion for limiting the duration of the bill, which he yesterday made and withdrew.

On the question, shall the clause be added? it was determined in the negative.

The question which had been so many days agitated in the Committee of the whole, was now renewed by Mr. GERRY, when,

Mr. BENSON moved to amend the bill, by altering the second clause, so as to imply the

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 22, 1789.]

power of removal to be in the President. The clause enacted, that there should be a chief clerk, to be appointed by the Secretary of Foreign Affairs, and employed as he thought proper, and who, in case of vacancy, shall have the charge and custody of all records, books, and papers appertaining to the department: and the amendment proposed that the chief clerk, "whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy," shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the department.

Mr. BENSON declared, if he succeeded in this amendment, he would move to strike out the words in the first clause, "to be removable by the President," which appeared somewhat like a grant. Now, the mode he took would evade that point, and establish a legislative construction of the constitution. He also hoped his amendment would succeed in reconciling both sides of the House to the decision, and quieting the minds of gentlemen.

Mr. PAGE expressed a desire of calling the yeas and nays on the question which had so long agitated them. He was apprehensive that, by shifting the ground in the manner now proposed, the journal would not declare truly the question which had been so long contested.

Mr. LAWRENCE viewed the clause as a legislative declaration; for which reason he should be well satisfied with it as it stood. He should be glad to meet gentlemen on ground of accommodation; but he did not think it likely to be effected by the proposed alteration.

Mr. MADISON admitted the objection made by the gentleman near him (Mr. BENSON) to the words in the bill; they certainly may be construed to imply a legislative grant of the power. He wished every thing like ambiguity expunged, and the sense of the House explicitly declared, and therefore seconded the motion. Gentlemen have all along proceeded on the idea that the constitution vests the power in the President; and what arguments were brought forward respecting the convenience or inconvenience of such a disposition of the power, were intended only to throw light upon what was meant by the compilers of the constitution. Now, as the words proposed by the gentleman from New York expressed to his mind the meaning of the constitution, he should be in favor of them, and would agree to strike out those agreed to in committee.

Mr. SMITH, of South Carolina.—I believe gentlemen are convinced of the impropriety of the clause carried in the committee; and though they are not willing to relinquish openly their principles, yet they will do it by agreeing to the amendment. Will they pretend to carry their point by a side blow, when they are defeated by fair argument, on due reflection? For my part, Mr. Speaker, I hold any declaration whatsoever an infringement on the constitution; but at the same time, if it be done, I hold it more

candid and manly to do it in direct terms, than by an implication like the one proposed.

Mr. SEDGWICK.—I wish the honorable mover of the amendment had been content with the decision of yesterday; because I apprehend the discussion of the question which he has agitated will take up some time, without any possible advantage. For my part, I do not see the difficulty which seems to strike his mind. If I understand the subject rightly, there seem to be two opinions dividing the majority of this House. Some of these gentlemen seem to suppose that, by the constitution, and by implication and certain deduction from the principles of the constitution, the power vests in the President. Others think that it is a matter of legislative determination, and that they must give it to the President on the principles of the constitution. Now, suppose either of these sentiments to be just, there is no impropriety in the other's assenting to the mode of expression already adopted: yet, if the latter opinion which I stated is the true one, there is an evident impropriety in agreeing to the amendment, and it may tend more to divide than unite the House. I hope the gentleman will therefore withdraw his motion, at least until the old question on striking out be decided.

Mr. BENSON had no objection to let his motion lie on the table. But his objection to the clause arose from an idea that the power of removal by the President hereafter might appear to be exercised by virtue of a legislative grant only, and consequently be subjected to legislative instability; when he was well satisfied in his own mind, that it was fixed by a fair legislative construction of the constitution.

Mr. MADISON withdrew his second to the gentleman's motion for the present, and proposed to the gentlemen who thought the constitution vested the power in the President and Senate, to try their opinion, by moving to add after the words "to be removable by the President," "by and with the advice and consent of the Senate." This motion, he thought, would give gentlemen a fair opportunity of trying the question, and recording their opinions. He begged gentlemen in opposition would not consider the motion of the gentleman from New York (Mr. BENSON) as a dereliction of the principle hitherto contended for; because it had no other effect than varying the declaration which the majority were inclined to make; consequently, there was no room for exultation on the part of the minority.

[Here followed a desultory conversation respecting the manner in which the question should be put; during which Mr. SEDGWICK said he would admit Mr. BENSON's amendment, because it could do no harm, being only a repetition of the words in the first clause; but he would vote against striking out in the first clause, when that question came before the House.]

The question on the amendment proposed by Mr. BENSON was taken by the yeas and nays, which are as follows:

JUNE 22, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

YEAS.—Messrs. Ames, Baldwin, Benson, Brown, Burke, Carroll, Clymer, Contee, Fitzsimons, Gilman, Goodhue, Griffin, Hartley, Reister, Lawrence, Lee, Leonard, Madison, Moore, Muhlenberg, Scott, Sedgwick, Seney, Sinickson, Smith, of Maryland, Sylvester, Thatcher, Trumbull, Vining, and Wadsworth.—30.

NAYS.—Messrs. Cadwalader, Coles, Gerry, Grout, Hathorn, Huntington, Livermore, Matthews, Page, Parker, Partridge, Van Rensselaer, Sherman, Smith, of South Carolina, Sturgis, Sumter, Tucker, and White.—18.

So the amendment was carried in the affirmative.

Mr. BENSON now moved to strike out of the first clause the words "to be removable by the President."

Mr. PAGE insisted that gentlemen had changed their ground by the amendment which had just taken place. It was now left to be inferred from the constitution that the President had the power of removal, without even a legislative declaration on that point, which they had heretofore so strongly insisted upon. He would submit to the majority, how far this comported with their arguments, and leave them to say if they had not evacuated untenable ground.

He did not wish to say much more on the subject, after it had been so well discussed; but could not help observing, that to a man of common sense, nothing appeared in the constitution from which it might be inferred that the power of removal vested in the President. All that was expressed in the instrument itself, related to removing by impeachment. How far they were tied down by the letter of the constitution, he would not positively say; but if any thing was to be drawn even from analogy, it was in favor of the President, by and with the advice and consent of the Senate. Besides, the exercise of such a prerogative by a Chief Magistrate is incompatible with the principles of a free Government. The gentlemen tell us that these are the principles of the constitution. I know not what were the intentions of its framers, but I see and judge of the work by my faculty of understanding; and nothing appears to convince me that the constitution distributes the power in the manner gentlemen have said. If we were framing a constitution, it might be proper to discuss the propriety of vesting the power of removal in the President; but as we are acting under one which we are sworn to support, I presume we are not at liberty to vary it by implication. I observed on a former occasion, that in doing this we do what is not only unnecessary, but dangerous. It will excite the jealousy of the people, raise fresh alarms, and create new rumors. We shall lose the confidence of our constituents, without which no Government can be well administered. I said before, that gentlemen did not consider the extent of their doctrine, when they contended so strongly for energy in Government. Energy in Government may become a despotism. The people of America, I will be bold to say, do

not wish a Government energetic to this degree. They wish the Government to be as the constitution has fixed it, and its powers to be exercised in the manner it has pointed out; and not to be accumulated upon the Chief Magistrate, in order to make him like a Sovereign whose yoke they disdained to bear.

Let me remind gentlemen once more of the situation of this country. There are thousands of our fellow-citizens dissatisfied with this feature of the constitution. There are two whole States which have not adopted our constitution. Can this be the time to make your Government more odious—to show a disposition towards monarchy? It cannot be. The patriots of America will never do ought to drive their country into that anarchy from which it is but just arising; they will not force the people to be loudly clamorous for amendments; yet such is the evident tendency of the present policy.

I earnestly hope that the words which we have all along contended against may be struck out; for, desirable as this bill is, I would rather lose it altogether than pass it in its present form.

Mr. MADISON.—I am in favor of the motion for striking out, but not upon the principles of my worthy colleague. I will briefly state my reasons for voting in the manner I intend. First, altering the mode of expression tends to give satisfaction to those gentlemen who think it not an object of legislative discretion; and second, because the amendment already agreed to fully contains the sense of this House upon the doctrine of the constitution; and therefore the words are unnecessary as they stand here. I will not trouble the House with repeating the reasons why the change of expression is best, as they are well understood. But gentlemen cannot fairly urge against us a change of ground, because the point we contended for is fully obtained by the amendment. It was truly said by the gentleman from New York, (Mr. BENSON,) that these words carry with them an implication that the Legislature has the power of granting the power of removal.

It is needless to assign my reasons why I think the Legislature not in possession of this power; they were fully explained before. I therefore shall only say, if there is a principle in our constitution, indeed in any free constitution, more sacred than another, it is that which separates the legislative, executive, and judicial powers. If there is any point in which the separation of the legislative and executive powers ought to be maintained with greater caution, it is that which relates to officers and offices. The powers relative to offices are partly legislative and partly executive. The Legislature creates the office, defines the powers, limits its duration, and annexes a compensation. This done, the legislative power ceases. They ought to have nothing to do with designating the man to fill the office. That I conceive to be of an executive nature. Although it be qualified in the constitution, I would not extend or strain that

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 22, 1789.]

qualification beyond the limits precisely fixed for it. We ought always to consider the constitution with an eye to the principles upon which it was founded. In this point of view, we shall readily conclude that if the Legislature determines the powers, the honors, and emoluments of an office, we should be insecure if they were to designate the officer also. The nature of things restrains and confines the legislative and executive authorities in this respect; and hence it is that the constitution stipulates for the independence of each branch of the Government.

Let it be understood that the Legislature is to have some influence both in appointing and removing officers, and I venture to say the people of America will justly fear a system of sinecures. What security have they that offices will not be created to accommodate favorites or pensioners subservient to their designs? I never did conceive, that so far as the constitution gave one branch of the Legislature an agency in this business, it was, by any means, one of its most meritorious parts; but so far as it has gone, I confess I would be as unwilling to abridge the power of that body as to enlarge it. But considering, as I do, that the constitution fairly vests the President with the power, and that the amendment declares this to be the sense of the House, I shall concur with the gentlemen in opposition so far as to strike out these words, which I now look upon to be useless.

I have a great respect for the abilities and judgment of my worthy colleague, (Mr. PAGE,) and am convinced he is inspired by the purest motives in his opposition to what he conceives to be an improper measure; but I hope he will not think so strange of our difference, if he considers the small proportion of the House which concurs with him with respect to impeachment being the only way of removing officers. I believe the opinion is held but by one gentleman besides himself. If this sentiment were to obtain, it would give rise to more objections to the constitution than gentlemen are aware of; more than any other construction whatever. Yet while he professes to be greatly alarmed on one account, he possesses a stoic apathy with respect to the other.

Mr. SEDGWICK did not mean to trouble the House with the reasons upon which his opinion was founded. He supposed every gentleman had made up his mind upon full deliberation. He had made up an opinion for himself, and intended to be guided by this opinion in giving his vote.

He believed there were a thousand circumstances which would demand a removal from office, of which the President alone could be the proper judge; therefore, the President alone ought to possess the power. He excluded cases of impeachment; but he thought it was the discretion of the Legislature to authorize the exercise of it, because they had complete power over the duration of the offices they created. Hence he deemed it necessary to make an ex-

press grant of the power of removal: but strike out these words, and there is no express grant in the bill. Now if he was right in his construction, it became necessary to retain the words; they could do no harm for the reasons before mentioned, and they stand very well with the amendment already agreed to. If he erred in judgment, no injury could arise from the error. But if other gentlemen err in their construction, we have a weak, decrepit explanation, which the President may not easily understand. For if he supposes the constitution totally silent, he can hardly draw authority from your law; and he will be reduced to the dilemma of acting in the manner related of the late Governor of Virginia, by an honorable gentleman from that State, (Mr. WURRE,) which is by no means to be wished.

Mr. GERRY was glad to find the majority had relinquished the right of the Legislature to grant this power. If they would go further, and leave the operation of the constitution uninfluenced, they would do right; but certainly it is improper for the House to throw its weight into the scale with the President, to counteract what gentlemen think a constitutional imbecility.

Mr. MOORE expressed his approbation of the motion, after what had been carried, because he would not have it thought that the Legislature possess a right to confer powers not vested in them by the constitution.

Mr. LAWRENCE was against striking out the words, because he thought the Legislature had power to establish offices on what terms they pleased. The constitution secured the independence of the judges, by making their appointment during good behavior; but would any gentleman contend, that Congress could not make this the tenure of other offices, if they thought such tenure likely to be most productive of public good? If this was admitted, the Legislature might abridge the constitutional power of the President respecting the removal of such officers. To avoid this clashing of opinions, he wished the words to remain in the bill.

Mr. BOBINSON was against the motion, because the constitution vested all executive power in the President. The power of designating and appointing officers to execute the laws, was in its nature executive. Consequently, the President would appoint *ex officio*, if he had not been limited by the express words of the constitution. Hence he inferred, *ex officio*, he would remove, without limitation; but as debate had arisen, and the question been seriously agitated, he was clear for making a legislative declaration, in order to prevent future inconvenience.

He had another reason. The arguments on a similar motion had taken up four days; they were such as convinced a large majority of the House that the words ought to remain in the bill. Now, to strike out after such mature deliberation, argued a fickleness which he hoped never to see affect this honorable body. No

JUNE 23, 1789.]

Secretary of Foreign Affairs.

[H. OF R.]

new arguments have now been urged. The former ones were conclusive, or they were not conclusive; if they were conclusive, we did right in keeping in the words; if they were not conclusive, we ought to have given them up. They appeared then to be conclusive, and appear still to be so; therefore he would vote against the motion.

Mr. TUCKER.—I am embarrassed on this question, as the yeas and nays are called; because the vote is taken in such a manner as not to express the principles upon which I vote.

In the Committee of the whole, I voted for striking out the words that are now proposed to be struck out; and my reason was, I was doubtful whether it was proper to vest on this occasion the power in the President alone. It appears to me, that the power is not necessarily vested in the President by the constitution, neither in the President and Senate. I find no words that fix this power precisely in any branch of the Government. It must, however, by implication, be in the Legislature, or it is no where, until the constitution is amended. I presume the implication is at least equally favorable to the Legislature as to any other branch, if it necessarily belongs to the Government. I apprehend a law is necessary in every instance to determine the exercise of the power. In some cases, it may be proper that the President alone should have it. I am not clear in my own mind, what general rule, if any, can be established on this subject. Perhaps in other cases it may be lodged with the President and Senate; or it may be given to the heads of departments. But whosoever is invested with it, it must be in consequence of a law; and the Legislature have a right to vest it where they please. For my part, I am not under those serious apprehensions which gentlemen have expressed. I do not apprehend that vesting it in the President, or President and Senate, will effect a change of Government; but at the same time, I am anxious to preserve a consistency, and that the business should be settled upon proper ground.

I said I was against the words in the committee, because I doubted if the President was the proper person to exercise this authority. The amendment adopted this morning I likewise voted against, because I do not wish that the law should imply that the power of removing officers at pleasure is a constitutional right vested in him. Now, I would rather a law should pass vesting the power in improper hands, than that the constitution should be wrongly construed. If we say the President may remove from office, it is a grant of power; and we can repeal the law, and prevent the abuse of it. But if we, by law, imply that it is a constitutional right vested in the President, there will be a privilege gained, which the Legislature cannot affect; at least, the reversion of such a solemn opinion will occasion much inconvenience, not to say confusion.

For these reasons, I shall now be against

striking out the words, though I wish to have some modification of them; but the last question being carried, has left me in doubt what to propose, to be consistent with my opinions. I am precluded from adding, by and with the advice and consent of the Senate; and perhaps it would be out of order to change the word remove into suspend.

Mr. HARTLEY was against striking out, and so would every gentleman be, he trusted, who was not fully convinced that the power of removal vested by the constitution is in the President. He owned he had some doubts on that head himself; perhaps some others might be in the same predicament; but he had none with respect to the propriety of the President's exercising that prerogative, and therefore should readily consent to grant it. This might be done by retaining the words, and without going beyond the avowed limits of the legislative authority.

Mr. VINING acquiesced in striking out, because he was satisfied that the constitution vested the power in the President; and he thought it more likely to obtain the acquiescence of the Senate on a point of legislative construction on the constitution, than to a positive relinquishment of a power which they might otherwise think themselves in some degree entitled to.

A desultory conversation followed; and the question was put and decided by the yeas and nays, as follows:

YEAS.—Messrs. Ames, Baldwin, Benson, Brown, Burke, Clymer, Coles, Gerry, Goodhue, Griffin, Grout, Hathorn, Huntington, Leonard, Livermore, Madison, Matthews, Moore, P. Muhlenberg, Page, Parker, Partridge, Van Rensselaer, Scott, Sherman, Sinnickson, Smith, (of South Carolina,) Sturgis, Sumter, Vining, and White.—31.

NAYS.—Messrs. Boudinot, Cadwalader, Carroll, Contee, Fitzsimons, Gilman, Hartley, Heister, Lawrence, Lee, Schureman, Sedgwick, Seney, Smith, (of Maryland,) Sylvester, Thatcher, Trumbull, Tucker, and Wadsworth.—19.

The words being struck out, the bill was ordered to be engrossed, and read the third time to-morrow.—Adjourned.

TUESDAY, JUNE 23.

Mr. HUNTINGTON, from the committee appointed for the purpose, reported a bill to promote the progress of science and useful arts, by securing to authors and inventors the exclusive right to their respective writings and discoveries, which passed its first reading.

DUTIES ON IMPORTS.

The House took up for consideration the Senate's amendments to the impost bill, which the House on the 16th instant had refused to concur in, and which a message from the Senate now informed them they would not recede from.

Mr. THATCHER moved to agree to the amendment of the Senate in the enacting style, with

H. OF R.]

Duty on Imports.

[JUNE 23, 1789.]

an amendment. The House originally sent the bill up in this form, "Be it enacted by the Congress of the United States;" the Senate proposed as an amendment, "Be it enacted by the Senate and Representatives;" and Mr. Thatcher wished to add the words "House of" before "Representatives"—observing that the word Senate spoke of the collective body of the Senators, and the word Representatives alluded to the individual members of this House only, and did not comprehend their legislative function. There ought to be an equality in the enacting style; therefore the words "House of" were necessary. This motion was agreed to.

The clause discriminating between the distilled spirits of nations in treaty, or otherwise, was now taken into consideration.

Mr. LEE was disposed to agree with the Senate on this article, because it would have but little effect, and therefore was not worth the delay; but he should be immovable with respect to the discrimination in the article of tonnage. He was far from abandoning his principle by this concession; it was merely the effect of deference and respect for the Senate, and a desire to set the Government in motion.

Mr. PAGE.—Gentlemen on a former occasion called this discrimination an empty compliment to our allies; yet it is that very compliment for which nations have stickled. It is the practice of nations to reciprocate advantages to each other's commerce; and hereby we manifest that spirit of attention and generosity which will do honor to the councils of America.

Mr. GERRY said, there were various opinions respecting the treaties which the United States had entered into. But admitting them to be beneficial, what are the principles upon which they are formed? Upon principles of reciprocity. What obligation are we laid under by them? Merely to fulfil the part we have stipulated to perform. Are there other obligations? If there are obligations of honor and generosity, will a difference of two cents on a gallon of distilled spirits discharge them? Will this be considered by our allies as paying a debt of gratitude? I apprehend not. Will it draw on a war, as it has been called, of commercial regulations, with a kingdom which has much in her power? If it does, will the benefit equal this disadvantage? If it does not compensate it, we shall be bad politicians to adopt measures injurious to our common good. Coercive measures ought not to be pursued in preference to lenient ones, unless there is a moral certainty of success by the former, and but a doubtful chance by the latter. If we should fail in our object, our impotence will become the scoff of the world, and our commerce be destroyed. Gentlemen ought to be well assured that they will not be compelled to recede with disgrace from a system of this kind, before they venture to adopt it. I have no conviction of this nature; and therefore I am willing to strike out the clause.

Mr. PAGE declared treaties to be beneficial, and gratitude a principle by which nations

ought to be actuated. He feared nothing from retaliation; he was too confident of success to dread a commercial war with the nation alluded to. It had been demonstrated by his worthy colleague, (Mr. MADISON,) and by a respectable commercial character and worthy member of this House from Pennsylvania, (Mr. FITZSIMONS,) that Great Britain, consistently with her interest, could not be disposed to retaliate; and while her interest opposed retaliation, there was no apprehension of defeat. Is Virginia compelled to recede from her commercial warfare? She has discriminated in a superior manner to what is now proposed; but Britain, careful of her interest, does not choose to enter the lists against her; she is tenacious of the American trade, and will be cautious how she throws it from her. I need not go, said he, over the old arguments. I trust they are sufficiently impressed on the mind of every member, and will determine him to adhere to that vote which, I am bold to say, does honor to the Government, and will terminate in promoting the common interest and general welfare of our constituents. Either, Mr. Speaker, let us insist upon our disagreement, or appoint a committee of conference; but by no means relinquish our object without a single new reason being offered to induce us thereto.

Mr. BORDINOR was clearly for holding up the discrimination in this place as well as the other, though he admitted we were under no obligation by treaty to do either. And are nations deprived of discretion? Can we, ought we, to do nothing unless bound thereto by treaty? Certainly it may be demonstrated that the contested discrimination is salutary to the national interest; hence it is a proper measure for this House to pursue. It has been hinted, that treaties are not beneficial to the United States. Was this the language that venerable patriots of America held when they formed our treaty of alliance with the French nation, when they solicited the attention and friendship of the princes of Europe in the day of calamity and danger? Far other were our sentiments then. But now it is thought another opinion may be entertained—away with the idea.

Treaties, Mr. Speaker, no doubt are beneficial, when properly and reciprocally made. The United States, desirous of settling their intercourse with the European nations and their dependencies, wish to meet them on this ground. Hence it is we propose a discrimination as an inducement for them to treat. Without something of this kind, what temptation have they to listen to our desires? If we do not employ the means an efficient Government has put into our hands for bringing about this wished-for event, it is to be feared our supineness will never permit us to take that station among nations, for which God and nature have designed us. This moment is the happy one by which the world may be taught our character: much depends on first impressions. We have little to fear from a nation which knows the value of

JUNE 23, 1789.]

Duty on Imports.

[H. of R.]

our friendship, but which our imbecility has encouraged to take an advantage of us. She can never be disgusted at our policy; she has shown us an example. But if she even were displeased, she is not in a situation to enter into a commercial warfare. Yet it by no means follows, because we take measures to regulate our commerce, that Britain must attempt to fetter our intercourse with her. She has it in her power to become a favored nation at the moment she deigns to enter into treaty with us. What can she require more? What more can be granted to her? So far, Mr. Speaker, will this measure be from promoting a commercial war, that I apprehend it will be productive of happy commercial alliances; therefore I hope this House will have firmness enough to persist in their vote of discrimination.

Mr. BENSON.—The more he reflected, the more he was convinced that the former decision of the House was unwise. He had heard no advocate for this measure, except within these walls; from which he inferred that it was not a favorite measure with the people of America. He thought we were in possession of as many advantages in our intercourse with nations between which and the United States no commercial treaty subsisted, as we were with those nations with which Congress had formed treaties. From this consideration, and because he apprehended consequences inimical to the interests of the Union, he hoped the House would agree with the Senate in their amendment.

Mr. MADISON had spoken so much on former occasions on this subject, that he had little more to say. He presumed that it had been fully proved that the voice of America was in favor of the motion. He had been informed that the Senate did not differ with the House in the principle that discrimination was proper, but they contemplated a detached and pointed law on this subject. Perhaps their method might be eligible, but he was not inclined to risk a certainty for an uncertainty. Their measures might not be proposed this session, or, if proposed, might not be acted upon; but, if they could, then this part of the impost law might be repealed. He was clearly for adhering to the disagreement.

Mr. BENSON thought the voice of the Union was against the measure; he formed this opinion from such materials as came to his hands. But waiving that point, he conceived the measure impolitic, and that was sufficient to induce him to vote against it; and since he found the Senate of the same opinion with himself, he had no hesitation to declare against it.

Mr. SEDGWICK said the public opinion was too uncertain a ground to decide the present question upon; it might be one thing in Massachusetts, another in New York, and a different one in Virginia. The principle of gratitude might also be left out of the question. It then would stand upon its true bottom—is the measure just in itself, and conducive to the interest of this country? Is it justice to give up part of

our revenue, when we have unceasing demands upon it? Certainly not. Is it our interest to lessen the duty on distilled spirits? Certainly we lose revenue by it, which we are not in a capacity to do. From these two considerations he would vote in favor of the Senate's amendment.

Mr. AMES called upon gentlemen to recollect the situation of the United States, and the urgent necessity there was for passing the revenue laws. He submitted to the House how much better it would be to let this subject be taken up distinctly, than make it a reason for delaying the great business they were sent here to complete. He was, however, strongly opposed to being led by the principle of gratitude in matters relative to the public weal. The obligation of a treaty never required more than what its terms stipulated for; therefore, in matters of commerce and matters of revenue, interest ought to be the predominating principle.

Mr. MADISON thought this bill would gain nothing by an immediate passage, because it could not operate until the collection bill was passed, and that would certainly, by the specimen the House had had of it, take some time. He would not agree to relinquish the present discrimination in hopes of obtaining a future one; and he contended that a discrimination was warranted upon the predominating principle alluded to by the gentleman last up; but he would agree to appoint a Committee of Conference on this clause, in hopes a compromise might take place.

Mr. WADSWORTH opposed the discrimination as ineffectual, and not because it was on unjust principles. He knew one or two things in the power of Congress, which would compel Great Britain to treat with us on terms of reciprocity. If gentlemen were disposed to pursue these, he would join them with all his heart, but any thing short of it will only irritate, and not produce any real national advantage whatever. His first object would be to interdict the trade which supplied the British dependencies with the necessaries of life. He was bold to say that Nova Scotia, the settlement founded by Britain to rival the United States, could not exist without such aid; her West India settlements would also feel the want of our commerce; the whole body of her colonies would be clamorous to regain the advantages thus suspended, and compel the mother country to adopt measures for their and our mutual convenience and interest; this he apprehended would be good policy, and perfectly warrantable. But a trifling discrimination may lose us the advantages we now have in British ports, without obtaining a compensation in exchange; for of whom are we to expect a compensation? Not of Britain, unless she is compelled; not of France, for the inducement is too trifling. I am sorry, said he, that I am drawn to make some observations on national generosity, because they may not tend to show that our allies display that virtue towards us in a very conspicuous manner.

H. OF R.]

Secretary of Foreign Affairs.

[JUNE 24, 1789.]

When this and the tonnage bill were first before the House, the commercial advantages granted the United States by Great Britain were pointed out; they appeared to exceed the privileges of our commerce with France in substance, though perhaps the latter were, in some instances, more showy. With respect to the British West Indies, we are on a footing with other nations, so that gentlemen ought not to complain, as they have done, of our suffering an indignity by submitting to such restrictions. But what shall I say with respect to our intercourse with the French islands? Our trade there is exposed to the most exorbitant charges; our vessels and seamen to indignities which I wish not to mention. But gentlemen need not be surprised at this view, when they look around and behold the custom-houses we have suffered them to erect in America. We cannot visit an island without a passport from them. I will not dwell upon what they exact for this necessary paper; but we admit, by paying it, their authority in this country over our commerce. If this picture of our situation be not sufficiently humiliating, I could color it with an enumeration of the contumelies and insults which our people have actually received. I could inform this honorable body, that our captains, with their officers and seamen, have been dragged from on board their ships at midnight, for the breach of laws never promulgated, by the caprice or wanton cruelty of a petty officer. Our venerable heads of families, our most virtuous citizens, have been thus, and more, ignominiously treated by the subjects of our great ally. Perhaps we have obtained a promise of better treatment in future, by making our well-grounded complaint; but let me pause a moment, and ask gentlemen whether they know a nation on earth whose friendship is worth purchasing at such a price? For my part, I know of none. Is the advantage of exporting to the place of consumption as many hogsheads of tobacco as the Government will admit, a compensation? In my mind, it is a question whether this article does not yield a better return from Great Britain than elsewhere; therefore the trade in it to other countries is not valuable enough to induce the freemen of America tamely to submit to impositions and indignities which debase the rank of an independent nation. Gentlemen may have formed high notions of our commerce with France; but I submit it to the enterprising and most assiduous of our merchants, to those who have had long connexions with that country, and who have formed their judgments upon the sure ground of experience, to say if the French trade is profitable to America; if this were the fact, many more of our traders would have found it out; for I believe the citizens of the Union are as sagacious in making such discoveries as any people whomsoever.

With these impressions on my mind, I cannot but join with the Senate in their amendment, which I hope may be carried; but I shall never oppose, on the contrary, I will support,

every effectual measure for compelling the nations of the world to treat with us on the principles of reciprocity.

The question for concurring with the Senate in striking out the discrimination on distilled spirits was put; upon which the House divided, and there appeared twenty-five in the affirmative, and twenty-seven in the negative; so the question of concurrence was lost. Adjourned.

WEDNESDAY, June 24.

DEPARTMENT OF FOREIGN AFFAIRS.

The engrossed bill "for establishing an Executive Department, to be denominated the Department of Foreign Affairs," was read the third time.

Mr. SUMTER.—This bill appears to my mind so subversive of the constitution, and in its consequences so destructive to the liberties of the people, that I cannot consent to let it pass, without expressing my detestation of the principle it contains. I do it in this public manner, in order to fulfil what I think to be my duty to my country, and to discharge myself of any concern in a matter that I do not approve.

Mr. PAGE discovered the fate of the bill; he knew it must pass, but, nevertheless, he would decidedly give it his negative, and he hoped the respectable minority which he had the honor of voting with hitherto on the question of removability, would unite with him firmly in their opposition; and in order to record to their constituents the sentiments they maintained, he moved to take the question by the yeas and nays.

One-fifth of the members present joined in requiring the yeas and nays; whereupon they were taken, and are,

YEAS.—Messrs. Ames, Benson, Boudinot, Brown, Burke, Cadwalader, Carroll, Clymer, Contee, Fitzsimons, Gilman, Goodhue, Griffin, Hartley, Heister, Hugger, Lawrence, Lee, Madison, Moore, Muhlenberg, Schureman, Scott, Sedgwick, Seney, Sinnickson, Sylvester, Trumbull, and Vining.—29

NAYS.—Messrs. Coles, Gerry, Grout, Hathorn, Huntington, Jackson, Leonard, Livermore, Matthews, Page, Parker, Partridge, Van Rensselaer, Sherman, Smith, of Maryland, Smith, of South Carolina, Stone, Sturgis, Sumter, Thatcher, Tucker, and White.—22

So the question was determined in the affirmative, and the clerk directed to carry the bill to the Senate, and desire their concurrence.

DUTIES ON IMPORTS.

The House now resumed the consideration of the message from the Senate, touching their amendments to the *Impost bill*.

After going through the same, and agreeing to three amendments, and rejecting six, it was

Ordered, That a Committee of Conference be desired with the Senate, upon the subject-matter of the amendments disagreed to; and Messrs. BOUDINOT, FITZSIMONS, and MADISON were appointed managers at the said conference, on the part of the House.

JUNE 25, 1789.]

War Department.

[H. OF R.]

DEPARTMENT OF WAR.

The House then went into a committee on the bill for establishing the Department of War. Mr. TRUMBULL in the chair.

Mr. BENSON proposed, with respect to the Secretary's being removable by the President, a similar amendment to that which had been obtained in the bill establishing the Department of Foreign Affairs.

Mr. SHERMAN thought it unnecessary to load this bill with any words on that subject; he conceived the gentleman ought to be satisfied with having had the principle established in the other bill.

Mr. PAGE was of the same opinion, but further thought it argued a doubt, even in the mind of the majority, of the truth of their principles, and they wanted, by repetition, to force that upon the mind which was not impressed by right reason. The question on the amendment was taken without further debate, and carried in the affirmative, twenty-four to twenty-two.

Some other small alterations being made, the committee rose, and reported the bill as amended; which being partly considered, the House adjourned.

THURSDAY, June 25.

Mr. WYNKOOP presented the petition of Samuel Briggs, of Philadelphia, praying for the exclusive privilege of constructing and vending a machine for making nails by mill-work. Ordered to lie on the table.

DEPARTMENT OF WAR.

The House resumed the consideration of the amendments reported by the Committee of the whole to the bill for establishing the War Department; which being agreed to, the bill was ordered to be engrossed.

A message from the Senate informed the House that they agree to the amendment proposed by this House to their amendment to the bill for laying a duty on goods, wares, and merchandises imported into the United States; insist on their fourth and fifth amendments to the said bill; agree to the proposed conference on the subject-matter of the other amendments thereto, and have charged their managers to confer also on the said fourth and fifth amendments. The Senate likewise agree to the amendments proposed by this House to their first and ninth amendments to the bill imposing duties on tonnage; and also to the proposed conference on the subject-matter of the other amendments to the said bill.

TREASURY DEPARTMENT.

The House then resolved itself into a Committee of the whole on the bill for establishing the Treasury Department, Mr. TRUMBULL in the chair. The second clause being under consideration,

Mr. PAGE objected to the words making it the duty of the Secretary to "digest and report

plans for the improvement and management of the revenue, and the support of the public credits;" observing that it might be well enough to enjoin upon him the duty of making out and preparing estimates; but to go any further would be a dangerous innovation upon the constitutional privilege of this House; it would create an undue influence within these walls, because members might be led, by the deference commonly paid to men of abilities, who give an opinion in a case they have thoroughly studied, to support the minister's plan, even against their own judgment. Nor would the mischief stop here; it would establish a precedent which might be extended, until we admitted all the ministers of the Government on the floor, to explain and support the plans they have digested and reported: thus laying a foundation for an aristocracy or a detestable monarchy.

Mr. TUCKER.—The objection made by the gentleman near me is, undoubtedly, well founded. I think it proper to strike out all the words alluded to, because the following are sufficient to answer every valuable purpose, namely, "to prepare and report estimates of the public revenue and public expenditures." If we authorize him to prepare and report plans, it will create an interference of the executive with the legislative powers; it will abridge the particular privilege of this House, for the constitution expressly declares, that all bills for raising revenue shall originate in the House of Representatives. How can the business originate in this House, if we have it reported to us by the Minister of Finance? All the information that can be required, may be called for, without adopting a clause that may undermine the authority of this House, and the security of the people. The constitution has pointed out the proper method of communication between the executive and legislative departments; it is made the duty of the President to give, from time to time, information to Congress of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. If revenue plans are to be prepared and reported to Congress, here is the proper person to do it; he is responsible to the people for what he recommends, and will be more cautious than any other person to whom a less degree of responsibility is attached. Under this clause, you give the Secretary of the Treasury a right to obtrude upon your plans, not only undigested, but even improper to be taken up.

I hope the House is not already weary of executing and sustaining the powers vested in them by the constitution; and yet it would argue that we thought ourselves less adequate to determine than any individual what burthens our constituents are equal to bear. This is not answering the high expectations that were formed of our exertions for the general good, or of our vigilance in guarding our own and the people's rights. In short, Mr. Chairman, I

H. OF R.]

Treasury Department.

[JUNE 25, 1789.]

can never agree to have money bills originated and forced upon this House by a man destitute of legislative authority, while the constitution gives such power solely to the House of Representatives; for this reason, I cheerfully second the motion for striking out the words.

Mr. BENSON.—If the proposed amendment prevail, the bill will be nearly nugatory. The most important service that can be rendered by a gentleman who is at the head of the Department of Finance, is that of digesting and reporting plans for the improvement of the revenue, and supporting public credit; and, for my part, I shall despair of ever seeing your revenue improved, or the national credit supported, unless the business is submitted into the hands of an able individual. I thought this subject was well understood, from the debate on the original motion. It was then insisted upon by an honorable gentleman, **Mr. GERRY**, who opposed the appointment of a Secretary of the Treasury, that his important duties ought to be “to consider of the means of improving the revenue, and introducing economy into the expenditures, and to recommend general systems of revenue.” Now, what more than this is required by the clause?

For my part, I am at a loss to see how the privilege of the House is infringed. Can any of the Secretary's plans be called bills? Will they be reported in such a form even? But admitting they were, they do not become bills, unless they are sanctioned by the House; much less is the danger that they will pass into laws without full examination by both Houses and the President. From this view of the subject, so far is the clause from appearing dangerous, that I believe it discovers itself to be not only perfectly safe, but essentially necessary; and without it is retained, the great object of the bill will be defeated.

Mr. GOODHUE.—We certainly carry our dignity to the extreme, when we refuse to receive information from any but ourselves. It must be admitted, that the Secretary of the Treasury will, from the nature of his office, be better acquainted with the subject of improving the revenue or curtailing expense, than any other person; if he is thus capable of affording useful information, shall we reckon it hazardous to receive it? For my part, when I want to attain a particular object, I never shut my ears against information likely to enable me to secure it.

Mr. PAGE.—I can never consent to establish, by law, this interference of an executive officer in business of legislation; it may be well enough in an absolute monarchy, for a minister to come to a Parliament with his plans in his hands, and order them to be enregistered or enacted; but this practice does not obtain even in a limited monarchy like Britain. The minister there, who introduces his plans, must be a member of the House of Commons. The man would be treated with indignation, who should attempt in that country to bring his schemes before Parliament in any other way. Now, why

we, in the free republic of the United States, should introduce such a novelty in legislation, I am at a loss to conceive. The constitution expressly delegates to us the business of the revenue; our constituents have confidence in us, because they suppose us acquainted with their circumstances; they expect, in consequence of this knowledge, we will not attempt to load them with injudicious or oppressive taxes; but they have no such security, if we are blindly to follow perhaps an unskillful minister. It does not answer me, **Mr. Chairman**, to say the House has a right of deliberating and deciding upon these plans, because we may be told, if you prune away this part or that part of the system, you destroy its efficiency. Therefore we must act with caution; we must either take or reject the whole; but if we reject the whole, sir, we are to depend upon ourselves for a substitute. How are we to form one? For my part, I should not despair, that the united wisdom of this House could procure one; but if we are to do this in the second instance, why cannot we attempt it in the first? I have no objection to our calling upon this or any other officer for information; but it is certainly improper to have him authorized by law to intrude upon us whatever he may think proper. I presume, sir, it is not supposed by the worthy gentleman from New York (**Mr. BENSON**) that we shall be at a loss to conceive what information would be useful or proper for us to require, that we must have this officer to present us with what he chooses. When the President requires an opinion of him, the constitution demands him to give it; so under the law, let him send his opinion in here, when it is asked for. If any further power is given him, it will come to this at last: we, like the Parliament of Paris, shall meet to register what he dictates. Either these reports of the Secretary are to have weight, or they are not; if they are to have weight, the House acts under a foreign influence, which is altogether improper and impolitic; if they are to have no weight, we impose a useless duty upon the officer, and such as is no mark of our wisdom.

Mr. AMES hoped the subject might be treated with candor and liberality; he supposed the objections were made on those principles, and therefore required a serious answer. The worthy gentleman who first expressed his aversion to the clause seemed to be apprehensive that the power of reporting plans by the Secretary would be improper, because it appeared to him to interfere with the legislative duty of the House, which the House ought not to relinquish.

Whenever it is a question, **Mr. Speaker**, said he, whether this House ought, or ought not, to establish offices to exercise a part of the power of either branch of the Government, there are two points which I take into consideration, in order to lead my mind to a just decision; first, whether the proposed disposition is useful; and, second, whether it can be safely guarded from abuse. Now I take it, sir, that the House, by their order for bringing in a bill to establish the

JUNE 25, 1789.]

Treasury Department.

[H. OF R.]

Treasury Department in this way, have determined the point of utility; or, have they erred in adopting that opinion, I will slightly make an inquiry. How does it tend to general utility? The Secretary is presumed to acquire the best knowledge of the subject of finance of any member of the community. Now, if this House is to act on the best knowledge of circumstances, it seems to follow logically, that the House must obtain evidence from that officer; the best way of doing this will be publicly from the officer himself, by making it his duty to furnish us with it. It will not be denied, sir, that this officer will be better acquainted with his business than other people can be. It lies within his department, to have a comprehensive view of the state of the public revenues and expenditures. He will, by his superintending power over the collection, be able to discover abuses, if any, in that department, and to form the most eligible plan to remedy or prevent the evil. From his information respecting money transactions, he may be able to point out the best mode for supporting the public credit; indeed, these seem to me to be the great objects of his appointment.

It is, perhaps, a misfortune incident to public assemblies, that from their nature they are more incompetent to a complete investigation of accounts than a few individuals; perhaps in a Government so extended, and replete with variety in its mode of expenditure as this, the subject may be more perplexing than in countries of smaller extent, and less variety of objects to guard. The science of accounts is at best but an abstruse and dry study; it is scarcely to be understood but by an unwearied assiduity for a long time; how then can a public body, elected annually, and in session for a few months, undertake the arduous task with a full prospect of success? If our plans are formed upon these incomplete investigations, we can expect little improvement; for I venture to say, that our knowledge will be far inferior to that of an individual, like the present officer. Hence I contend, sir, that the Secretary is a useful and invaluable part of the Government.

I would not have it understood that I am against an inquiry being made into this subject at every session of the Legislature. I think such a practice highly salutary, but I would not trust to a hasty, or perhaps injudicious examination of a business of this magnitude; on the contrary, I would take every precaution in ascertaining the foundation upon which our revenues are to stand.

If we consider the present situation of our finances, owing to a variety of causes, we shall no doubt perceive a great, although unavoidable confusion throughout the whole scene; it presents to the imagination a deep, dark, and dreary chaos; impossible to be reduced to order without the mind of the architect is clear and capacious, and his power commensurate to the occasion; he must not be the flitting creature of a day, he must have time given him competent for the successful exercise of his authority. It

is with an intention to let a little sunshine into the business that the present arrangement is proposed; I hope it may be successful, nor do I doubt the event. I am confident our funds are equal to the demand, if they are properly brought into operation; but a bad administration of the finances will prove our greatest evil.

But is our proposed arrangement safe? Are the guards sufficient to prevent abuse? I am perfectly satisfied it can be made so, and hope the united exertions of both Houses will effect it. How is the power complained of by the honorable gentlemen over the way (Mr. PACE and Mr. TUCKER) unsafe? We are told, the plans reported may have an undue influence. Upon what ground is this opinion rested? Do the gentlemen apprehend the facts will be fallaciously stated? If so, I would ask, cannot they be detected? If facts are faithfully stated, and the deductions are fair, no doubt the plan will be patronized; and will gentlemen say that it ought not? I believe there is little danger of imposition, for a person in this situation would hardly run the risk of detection, in a case where detection might be easy by an examination of the books and vouchers, and his reputation be destroyed.

What improper influence could a plan reported openly and officially have on the mind of any member, more than if the scheme and information were given privately at the Secretary's office?

Nor, Mr. Chairman, do I approve what the gentlemen say with respect to calling on the Secretary for information; it will be no mark of inattention or neglect, if he take time to consider the questions you propound; but if you make it his duty to furnish you plans of information on the improvement of the revenue and support of public credit, and he neglect to perform it, his conduct or capacity is virtually impeached. This will be furnishing an additional check.

It has been complained of as a novelty; but, let me ask gentlemen, if it is not to an institution of a similar kind that the management of the finances of Britain is the envy of the world? It is true, the Chancellor of the Exchequer is a member of the House that has the sole right of originating money bills; but is that a reason why we should not have the information which can be obtained from our officer, who possesses the means of acquiring equally important and useful knowledge? The nation, as well as the Parliament of Britain, holds a check over the Chancellor: if his budget contains false calculations, they are corrected; if he attempts impositions, or even unpopular measures, his administration becomes odious, and he is removed. Have we more reason to fear than they? Have we less responsibility or security in our arrangement of the Treasury department? If we have, let us improve it, but not abridge it of its safest and most useful power. I hope the committee will refuse their approbation of the present motion.

H. OF R.]

Treasury Department.

[JUNE 25, 1789.]

Mr. LIVERMORE.—I shall vote for striking out the clause, because I conceive it essentially necessary so to do. The power of originating money bills within these walls, I look upon as a sacred deposit which we may neither violate nor divest ourselves of, although at first view it may appear of little importance who shall form a plan for the improvement of the revenue. Although every information tending to effect this great object may be gratefully received by this House, yet it behooves us to consider to what this clause may lead, and where it may terminate. Might it not, by construction, be said, that the Secretary of the Treasury has the sole right of digesting and reporting plans for the improvement of the revenue? This construction may appear a little extraordinary, but it is not more so than some constructions heretofore put upon other words; but however extraordinary it may be, it may take place, and I think the best way to avoid it, will be to leave out the words altogether. It is certainly improper that any person, not expressly entrusted by our constituents with the privilege of taking their money, should direct the quantum and the manner in which to take it.

But if there is not the danger I have mentioned, of giving power exclusively to this officer, I would ask gentlemen, and I submit it to their candor to say, whether it must not have a tendency to render the minds of the members indifferent on the subject, if the business is to be arranged and conducted by another, who, we are told, is better capable of understanding it than ourselves? Certainly, we shall hardly think it worth while to trouble our heads about the business. How far this will disappoint the object of our election, may be plainly seen. For my part, I think the power too great to be entrusted in any hands but those of the representatives of the people, where the constitution has deposited it, unless it be to a committee specially appointed by the House for that purpose.

Some allusions, Mr. Chairman, have been made with respect to the origin of this power. Gentlemen have intimated that it was copied from the powers vested in the First Lord of the Treasury. I am not of this opinion. I rather believe the committee, in searching for precedents, have turned to the former appointment of a Superintendent of Finance under the late Confederation, and, having discovered this enumerated among his powers, have copied it into the bill, not adverting to the different circumstances of the present and former Congress; for to them alone was not confined the power of originating revenue plans. Besides, it might be safe in them, because they possessed the legislative and executive power; they could abolish his plans and his office together, if they thought proper; but we are restrained by a Senate, and the negative of the President. We have no power over him, therefore we ought to be cautious of putting dangerous powers into his hands.

Mr. SEDGWICK.—If the principle prevails for

curtailing this part of the Secretary's duty, we shall lose the advantages which the proposed system was intended to acquire. The improvement and management of the revenue is a subject that must be investigated by a man of abilities and indefatigable industry, if we mean to have our business advantageously done. If honorable gentlemen will for a moment consider the peculiar circumstances of this country, the means of information attainable by the individual members of this House, and compare them with the object they have to pursue, they will plainly perceive the necessity of calling to their aid the advantages resulting from an establishment like the one contemplated in the bill; if they weigh these circumstances carefully, their objections, I trust, will vanish. Coming, Mr. Chairman, as we do, from different parts of the Union, from States where the objects of revenue are different, where the circumstances and views of the people are different, and in a great degree local, it appears to me that no one member can be so fortunate as to possess the extensive knowledge attainable by this officer. Another circumstance induces me to draw the same conclusion. We shall find systems adopted to defeat the collection of the revenue, but it will be impossible for any of us to become so well acquainted with these machinations as to defeat their object; but from the advantageous position we give the Secretary of the Treasury, and the multifarious objects of his attention, he may watch over and detect their plans; he will have a better capacity to propose a remedy than any member of the Legislature.

I do not apprehend any undue influence operating on the members of this House, because I am persuaded there will ever prevail an independent and indignant spirit within the walls of Congress, hostile to every venal attempt. Nor do I believe it possible to color, with a semblance of justice, either false or base measures against the public welfare; the wisdom of this House can never be thought so meanly of. I trust a majority will always be found wise and virtuous enough to resist being made the tools of a corrupt administration. I, therefore, with confidence, approve the object of the clause.

I will mention one other circumstance, of no inconsiderable force, in favor of the bill. Coming, as I said we do, from districts with different ideas, perhaps different objects to pursue, much time will necessarily be consumed before a current is found in which the mind of the majority will run; and even then, gentlemen will not be certain they have procured all the information that could be obtained. It appears, therefore, to me, from the reason and nature of things, to be our duty, as wise legislators, to form such a reservoir for information as will supply us with what is necessary and useful at all times.

Mr. BODINOT.—A proper jealousy for the liberty of the people is commendable in those who are appointed and sworn to be its faithful guardians; but when this spirit is carried so far

JUNE 25, 1789.]

Treasury Department.

[H. OF R.]

as to lose sight of its object, and instead of leading to avoid, urges on to the precipice of ruin, we ought to be careful how we receive its impressions. So far is the present measure from being injurious to liberty, that it is consistent with the true interest and prosperity of the community. Are gentlemen apprehensive we shall be led by this officer to adopt plans we should otherwise reject? For my part, I have a better opinion of the penetration of the representation of the people than to dread any such visionary phantom.

Let us consider whether this power is essentially necessary to the Government. I take it to be conceded by the gentlemen, that it is absolutely so. They say they are willing to receive the information because it may be serviceable, but do not choose to have it communicated in this way. If the Secretary of the Treasury is the proper person to give the information, I can see no other mode of obtaining it that would be so useful. Do gentlemen mean that he shall give it piecemeal, by way of question and answer? This will tend more to mislead than to inform us. If we would judge upon any subject, it would be better to have it in one clear and complete view, than to inspect it by detachments; we should lose the great whole in the minutiae, and, instead of a system, should present our constituents with a structure composed of discordant parts, counteracting and defeating the operation of each other's properties.

Make your officer responsible, and the presumption is, that plans and information are properly digested; but if he can secrete himself behind the curtain, he might create a noxious influence, and not be answerable for the information he gives. I conceive this great principle of responsibility to be essentially necessary to secure the public welfare: make it his duty to study the subject well, and put the means in his power; we can then draw from him all the information he has acquired, and apply it to its proper use. Without such an officer, our plans will be ineffectual and inconsistent. I have seen too much the want of a like officer in the State Legislatures, not to make me very desirous of adopting the present plan. It has been said, that the members coming from the different parts of the Union are the most proper persons to give information. I deny the principle. There are no persons in the Government to whom we could look with less propriety for information on this subject than to the members of this House. We are called from the pursuit of our different occupations, and come without the least preparation to bring forward a subject that requires a great degree of assiduous application to understand; add to this the locality of our ideas, which is too commonly the case, and we shall appear not very fit to answer the end of our appointment. Witness the difficulty and embarrassments with which we have hitherto been surrounded. If we had the subject digested and prepared, we should determine with ease on its fitness, its combination, and its principles,

and might supply omissions or defects without hazard; and this in half the time we could frame a system, if left to reduce the chaos into order.

Mr. HARTLEY rose to express his sentiments, as he did on every occasion, with diffidence in his own abilities; but he looked upon the clause as both unsafe and inconsistent with the constitution. He thought the gentleman last up proved too much by his arguments; he proved that the House of Representatives was, in fact, unnecessary and useless; that one person could be a better judge of the means to improve and manage the revenue, and support the national credit, than the whole body of Congress. This kind of doctrine, Mr. Chairman, is indelicate in a republic, and strikes at the root of all legislation founded upon the great democratic principle of representation. It is true, mistakes, and very injurious ones, have been made on the subject of finance by some State Legislatures; but I would rather submit to this evil, than, by my voice, establish tenets subversive of the liberties of my country.

Notwithstanding what I have said, I am clearly of opinion it is necessary and useful to take measures for obtaining other information than what members can acquire in their characters as citizens; therefore, I am in favor of the present bill; but I think these words too strong. If it was modified so as to oblige him to have his plans ready for this House when they are asked for, I should be satisfied; but to establish a legal right in an officer to obtrude his sentiments perpetually on this body, is disagreeable, and it is dangerous, inasmuch as the right is conveyed in words of doubtful import, and conveying powers exclusively vested by the constitution in this House.

One gentleman (Mr. AMES) has said, that the Secretary would be responsible for the plans he introduces. Very true; but how are we to detect the impositions they contain; for, he says, we require more time and leisure to make the scrutiny than falls to our lot, so that it does not afford the degree of responsibility which his observations supposed.

Mr. GERRY expressed himself in favor of the object of the clause; that was, to get all the information possible for the purpose of improving the revenue, because he thought this information would be much required, if he judged from the load of public debt, and the present inability of the people to contribute largely toward its reduction.

He could not help observing, however, the great degree of importance they were giving this, and the other executive officers. If the doctrine of having prime and great ministers of state was once well established, he did not doubt but we should soon see them distinguished by a green or red ribbon, or other insignia of court favor and patronage. He wished gentlemen were aware of what consequences these things lead to, that they might exert a greater degree of caution.

H. OF R.]

Treasury Department.

[JUNE 25, 1789.]

The practice of Parliament in Britain is first to determine the sum they will grant, and then refer the subject to a Committee of Ways and Means: this might be a proper mode to be pursued in this House.

Do gentlemen, said he, consider the importance of the power they give the officer by the clause? Is it not part of our legislative authority? And does not the constitution expressly declare that the House solely shall exercise the power of originating revenue bills? Now, what is meant by reporting plans? It surely includes the idea of originating money bills, that is, a bill for improving the revenue, or, in other words, for bringing revenue into the treasury. For if he is to report plans, they ought to be reported in a proper form, and complete. This is giving an indirect voice in legislative business to an executive officer. If this be not the meaning of the clause, let gentlemen say what is, and to what extent it shall go; but if my construction is true, we are giving up the most essential privilege vested in us by the constitution. But what does this signify? The officer is responsible, and we are secure. This responsibility is made an argument in favor of every extension of power. I should be glad to understand the term. Gentlemen say the Secretary of the Treasury is responsible for the information he gives the House—in what manner does this responsibility act? Suppose he reports a plan for improving the revenue, by a tax which he thinks judicious, and one that will be agreeable to the people of the United States; but he happens to be deceived in his opinion, that his tax is obnoxious, and excites a popular clamor against the minister—what is the advantage of his responsibility? Nothing. Few men deserve punishment for the error of opinion; all that could be done would be to repeal the law, and be more cautious in future in depending implicitly on the judgment of a man who had led us into an impolitic measure. Suppose the revenue should fall short of his estimate, is he responsible for the balance? This will be next to carrying the idea further than any Government hitherto has done. What then is the officer to be responsible for, which should induce the House to vest in him such extraordinary powers?

It was well observed by the honorable gentleman over the way, (Mr. PAGE,) that when his bill or plan is before the House, we must take or reject the whole; for if the individual members are so uninformed on the subject as they have been represented, it will be next to presumption to prepare an alteration; we should be told it was his duty officially to present plans, and our duty officially to pass them; that he is better informed than any other man, nay, better than the collective wisdom of the country. But this argument goes further still, and it may be justly asked, what occasion is there for a session of Congress? It incumbers the nation with a heavy expense, without rendering it any service. For, if we can neither alter nor improve the Secretary's plans, we can only con-

sume our time to no avail. Under these circumstances, it will be patriotic to lay down our authority, and vest it in the great minister we have established.

MR. LAWRENCE.—I do not see consequences so dangerous as some gentlemen seem to apprehend; nor did they appear to them, I believe, when the subject was last under consideration. I recollect, Mr. Chairman, that some difficulty was made about establishing this office, because it was feared we could not find men of sufficient abilities to fill it. The duties were then properly deemed of a high and important nature, and enumerated as those proposed in the bill. It was supposed by an honorable gentleman, that the powers here expressed might be lodged in a board, because an individual was incompetent to undertake the whole. But now we have the wonderful sagacity of discovering, that if an individual is appointed, he will have capacity to form plans for improving the revenue in such an advantageous manner, as to supersede the necessity of having the representatives of the people consulted on the business; he will not only perform the usual duties of a Treasury Board, but be adequate to all purposes of legislation. I appeal to the gentleman for his usual candor on this occasion, which will assure us that he has wire-drawn his arguments.

I hope, sir, if we give this power to an individual, we shall have judgment enough to discover whether his plans are consistent with the public happiness and prosperity; and while we exercise this judgment, there can be no cause to apprehend the chimerical effects portrayed by the gentleman last up.

It is said to be giving him the power of legislation. Do we give him the power of deciding what shall be law? While we retain this power, he may give us all the information possible, but can never be said to participate in legislative business; he has no control whatever over this House. I see no danger, but a great deal of benefit, arising from the clause; by making it his duty to study the subject, we may reasonably expect information.

How is it said, that the power of reporting plans for the improvement of the revenue, is the power of originating money bills? The constitution declares that power to be vested solely in this House. Now, will gentlemen say a money bill is originated by an individual member if he brings it forward? It cannot be originated, in my opinion, until the sense of the House is declared; much less can a plan for the improvement of the revenue be said to be a money bill.

MR. GERRY admitted that he gave it as his opinion, that it was not an easy thing to find a proper person for conducting the finances in this country; there were but few in Europe who possessed abilities equal to the undertaking. He said before, that he knew but one in America, and believed there were not many to be found. These were his sentiments then, and

JUNE 25, 1789.]

Treasury Department.

[H. of R.]

he had made no discoveries since that warranted a change of opinion. But perhaps the advocates of the bill are acquainted with a gentleman fit for the business; if they are, it is more than he pretended to be, unless, as he said before, it was an honorable member of the Senate, who had made more progress in acquiring a knowledge of this difficult science, than any other person he had heard of.

He would not proceed on this subject, because the House had determined to appoint such an officer, and thereby put an end to the debate. By that vote, they supposed they could find a man equal to the task; he hoped they might, but he was really apprehensive of a disappointment, when he considered the confused and embarrassed state of our public debts and accounts; however, he submitted to the voice of his country.

The gentleman last up, said he, did me the honor of noticing what I said on a former occasion; but I appeal to himself whether my words were conveyed in the language of the bill. Did I advise any thing like this? Has not the gentleman sagacity enough to discover that my arguments went no further than this, that he was the proper person to give information respecting the public revenues and expenses, the mode of collecting, and the probable remedy for abuses?

But certainly, this House contains more information relative to the proper means of supporting the national credit, and how far our constituents are capable of sustaining an increase of taxes, or which mode of assessment would yield most satisfaction. Yet gentlemen propose to give the power of advising the House, in all these cases, to the Secretary of the Treasury. It was always my opinion, that the representative body, from their sense of feeling, was a better judge of taxation than any individual, however great his sagacity, or extensive his means of information.

The gentleman says, we only give him power to give information; that is what I wish, but the clause goes further. Is digesting and reporting plans merely giving information? These plans will have to undergo the consideration of the House, I grant; but they must have some influence coming from such high authority, and if they have this in any degree whatever, it is subversive of the principles laid down in the constitution.

The gentleman says, a bill is not originated until it has obtained the sense of the House; what is it then? The bill now under consideration has not obtained the sense of the House, yet I believe that gentleman himself conceives it to be a bill; he uses the term when he is speaking of it, and will hardly deny that it has originated. I think, sir, whenever the House order a committee to bring in a bill, or give leave to a member to read one in his place, that by that order they originate the bill; and here it is that I am apprehensive of a diminution of our privilege. By this law you give the Secretary the right of digesting and reporting all plans,

which is but another word for bills, for the management and improvement of the revenue, and supporting public credit. To what an extent these last words may reach, I shall not pretend to say; but certainly they may include the operations of more departments than one. If the clause will bear the construction I have mentioned, it is altogether unwarrantable. I said, I differed from the gentleman with respect to the origin of bills, but perhaps this phrase may be applicable to a bill on its passage; all bills, from the time they are admitted before the House, may be said to be on their passage; but they are originated, as I take it, at their introduction.

Mr. FITZSIMONS was not certain that he understood the objections which were made against the clause; but if he did, it was a jealousy arising from the power given the Secretary to report plans of revenue to the House. No gentleman, he believed, had objected to his preparing a plan, and giving it in when it was called for. If this were the case, perhaps harmony might be restored to the committee by changing the word report into prepare; he would therefore move that amendment, in order to try the sense of the House.

Mr. MADISON.—After hearing and weighing the various observations of gentlemen, I am at a loss to see where the danger lies. These are precisely the words used by the former Congress, on two occasions, one in 1783, the other in a subsequent ordinance, which established the Revenue Board. The same power was also annexed to the office of Superintendent of Finance, but I never yet heard that any inconvenience or danger was experienced from the regulation; perhaps, if the power had been more fully and frequently exercised, it might have contributed more to the public good.

There is a small probability, though it is but small, that an officer may derive a weight from this circumstance, and have some degree of influence upon the deliberations of the Legislature; but compare the danger likely to result from this clause, with the danger and inconvenience of not having well-formed and digested plans, and we shall find infinitely more to apprehend. Inconsistent, unproductive, and expensive schemes, will be more injurious to our constituents than the undue influence which the well-digested plans of a well-informed officer can have. From a bad administration of the Government, more detriment will arise than from any other source. The want of information has occasioned much inconvenience and unnecessary burthens under some of the State Governments. Let it be our care to avoid those rocks and shoals in our political voyage, which have injured, and nearly proved fatal to, many of our cotemporary navigators.

A gentleman has asked, what is meant by responsibility? I will answer him. There will be responsibility in point of reputation, at least a responsibility to the public opinion with respect to his abilities; and supposing there is no per-

H. OF R.]

Treasury Department.

[JUNE 25, 1789.]

sonal responsibility, yet we know that men of talents and ability take as much care for the preservation of their reputation as any other species of property of which they are possessed. If a superior degree of wisdom is expected to be displayed by them, they take pains to give proofs that they possess it in the most unequivocal manner; this of itself will ensure us no small degree of exertion.

With respect to originating money bills, the House has the sole right to do it; but if the power of reporting plans can be construed to imply the power of originating revenue bills, the constitution is inconsistent with itself, in giving the President authority to recommend such measures as he may think expedient or necessary; but the construction is too unnatural to require further investigation.

I have admitted there is a small probability of a small inconvenience, but I do not think it any more an argument against the clause, than it would be an argument against having windows in a house, that it is possible the wind and the rain may get in through the crevices.

Mr. LIVERMORE expressed an apprehension that the clause originated from a clause in an ordinance of the former Congress; he found now he was not mistaken; but he wished gentlemen to distinguish, in the manner he had attempted to do, between properties of this Congress and that, from which they might discover the impropriety of adopting it.

He thought gentlemen had sufficiently extolled the excellence of this office, and its advantages. He remembered that the grant of this power to the officer who formerly presided at the head of the finances, had produced some morsels of this kind; the five per cent. impost, a poll tax, and a land tax, if his memory served him right, were submitted; how far these were likely to meet the approbation of the Union, he did not say; but certainly one of them would meet few patrons. From this specimen, he did not form so favorable an opinion as some gentlemen expressed of the revenue plans, prepared, digested, and reported by a Secretary of the Treasury.

Mr. PAGE added, that the late Congress were obliged to submit their plans to the State Legislatures; consequently, there was less danger of undue influence. As this was his principal fear, he would vote against every thing like giving him authority to bring his plans before the House.

Mr. LIVERMORE declared the amendment proposed by Mr. FITZSIMONS unsatisfactory, and by no means removing the ground of complaint.

Mr. TUCKER likewise objected to the amendment, because its effect would be precisely the same with the words standing in the bill. Why, said he, should the Secretary be directed to prepare plans, unless it is intended that the House should regularly call for them? The views of the gentleman are to have a uniformity in the system of finance; but how can this

be effected, without the plans are always brought before us? Whatever the House shall presume to do on independent principles, may break in upon the Secretary's system, or make him vary his propositions, in order to accommodate them to what we have done. If we must adopt plans for the sake of uniformity, we must adopt them at all times, or lose our object.

However useful it may be to obtain information from this officer, I am by no means for making it a matter of right in him to intrude his advice. I admit, information may at all times be acceptable, but I think advice should never come but when required. Are we to be advised on all occasions, because we don't know when to require it? Are the members of this House incapable of asking for assistance when they want it? Why have we not affronted the other branches of the Government, as well as this House? Why have we not said that the Secretary of Foreign Affairs should prepare and digest plans for the formation of treaties, and report them to the President and Senate, who are exclusively to manage that concern? The cases are exactly similar; but we did not choose to offer them such an indignity. If it is right in one instance, it is equally so in every other. We ought to have given the Secretary at War an opportunity of exercising his ingenuity, in devising plans of fortifications to strengthen our shores and harbors; we ought, in every case, where we have to decide, appoint officers with the same view to aid our deliberations, and, in fine, to perform the whole duties for which we were elected.

Mr. HARTLEY expressed himself satisfied with the amendment proposed by Mr. FITZSIMONS.

Mr. STONE was not afraid of giving the officer the power of reporting plans, because he was sure Congress would, in every case, decide upon their own judgment. A future Congress would not pay such a deference, even to their predecessors, as to follow in their footsteps, unless they were convinced of the good policy of their measures. He thought, if the House wanted to make use of the information acquired by the Secretary, they ought to give him notice of their intention; consequently, something of this kind was proper in the bill.

Mr. SHERMAN thought the principle held up by the clause, was absolutely necessary to be received. It was of such a nature as to force itself upon them; therefore it was in vain to attempt to elude it by subterfuge. It was owing to the great abilities of a financier, that France had been able to make the exertions we were witnesses of a few years ago, without embarrassing the nation. This able man, after considerably improving the national revenue, was displaced; but such was the importance of the officer, that he has been restored again.

The honorable gentleman, said he, from South Carolina, (Mr. TUCKER,) has asked why we did not make a similar provision in the case of the Departments of Foreign Affairs, and of War, to assist the President. If he had consulted the con-

JUNE 27, 1789.]

Tonnage Bill.

[H. OF R.]

stitution, he would have found it unnecessary, because it is there made the duty of the heads of departments to answer the inquiries of the President in writing. It is the proper business of this House to originate revenue laws; but as we want information to act upon, we must procure it where it is to be had, consequently we must get it out of this officer, and the best way of doing so, must be by making it his duty to bring it forward.

I do not contend for a word; if the spirit of the clause is retained, I am satisfied.

Mr. BALDWIN.—I do not see what we are guarding against by striking out the words, unless gentlemen mean to go so far as to introduce a prohibitory clause, and declare that the Secretary of the Treasury shall be restrained from digesting or preparing plans for the improvement of the revenue. If there is any evil in having him attend to this branch of the business, I cannot see how to avoid it. Suppose the officer is a bad man, and there are others like him in this House, (for this must be what the gentlemen are afraid of;) and suppose he has prepared a scheme for speculation, which he hopes to get adopted by making dupes of the honest part; how are you to hinder it from being brought forward? Cannot his friends introduce it as their own, by making and seconding a motion for that purpose? Will you restrain him from having access to the members out of doors? And cannot he infuse his dangerous and specious arguments and information into them as well in the closet, as by a public and official communication? But, Mr. Chairman, can this House, or if it can, will it, prevent any of their constituents from bringing before them plans for the relief of grievances or oppressions? Every individual of the community can bring business before us by petition, memorial, or remonstrance, provided it be done in a decent manner. How then do you propose to restrain the Secretary of the Treasury?

I think the clause is very well as it stands, and shall therefore be against the amendment.

Mr. PAGE's motion for striking out the clause being put and negatived:

The question on Mr. FITZSIMONS's motion to amend the bill, by striking out the word report, and inserting prepare, was taken and carried by a great majority.

After which the House adjourned.

FRIDAY, JUNE 26.

A number of the members attending the interesting conference which to-day took place with the Senate on the impost and tonnage bills, no business was done in this House.

SATURDAY, JUNE 27.

The engrossed bill for establishing the Department of War was read the third time, passed, and sent to the Senate for its concurrence.

REVENUE BILL.

Mr. BOUDINOT, from the managers on the part of this House in the conference with the Senate, on the subject of the amendments to the Impost bill, reported that the conference had agreed to pass the bill as amended by the Senate, with some additional amendments, viz: the duty on distilled spirits of Jamaica proof, to be reduced from fifteen cents to ten cents per gallon. The duty on all other spirits, to be reduced from twelve to eight cents per gallon. The duty on beer, ale, porter, or cider, imported in casks, from eight to five cents per gallon. The duty on beer imported in bottles, from twenty-five to twenty cents per gallon. The duty on coal, from three to two cents per bushel.

TONNAGE BILL.

Mr. BOUDINOT reported further with respect to the Tonnage bill, and the House agreed to the Senate's amendment, in the third section, whereby foreign vessels are allowed to carry goods coastwise, upon paying fifty cents per ton at each entry.

And in the first section, whereby all ships built within the United States, and afterwards sold to foreigners, pay twenty cents per ton at each entry less than if such vessel had been built in a foreign country.

The House then took up the amendment proposed to strike out the clause discriminating between the tonnage of vessels belonging to nations in treaty, and those not in treaty.

On this clause it was observed by Mr. MADISON, that nothing had been urged at the conference, by the managers on the part of the Senate, in favor of this amendment, but what had been repeated over and over again, by the opponents to the clause, in its original form in this House. But it was not contended by the Senate, that the principle was improper; so far from it, they thought some measure of a similar tendency to be necessary, and were inclined to take the subject up, but on a different scale, and to extend it further than the House had hitherto contemplated. He had, however, some doubts whether it would not be more prudent to adopt the moderate style of the bill, than apply to rasher expedients; if the end could be attained, without departing from the principles of moderation, it would redound to the honor of the Government; but, at all events, it was prudent to begin with measures of this temper; if they were found ineffectual, it might then be time enough to attempt more coercive regulations. For these reasons, he was in favor of the bill as it stood, without the Senate's amendment.

There was another circumstance that had considerable weight on his mind; it was universally admitted, that something ought to be done this session, both for the dignity of the United States, and to answer the high expectation of the people; but if the proposed discrimination be relinquished, there is little pro-

H. of R.]

Tonnage Bill.

[JUNE 27, 1789.]

bability of any other plan being adopted, inasmuch as the time of both Houses will be fully occupied in organizing the Government, and cannot, without some inconvenience, be diverted to any other object. Yet, if it should so happen, that the plan proposed by the Senate can be gone through, the law may contain a clause for repealing this part of the Tonnage bill, and no inconvenience will arise,

Mr. LAWRENCE presumed, if the question was not carried for striking out the discriminating clause, the bill would be lost; and as it was a matter of great consequence in the scale of revenue, he wished to show the part he took, and would call for the yeas and nays, if he was supported.

Mr. VINING declared, with much decision, that he would rather the bill should be lost than passed without a discriminating clause. He had listened to the arguments used at the conference yesterday, with the greatest attention, and a mind open to conviction, and had discovered that the good of the country required the absolute adoption of the principle. He was by no means actuated by resentment to Britain for her former usage; she had pursued what she took to be her interest; and we, as an independent nation, have a right to do the same. He hoped a majority of this House would join with the voice of their constituents, and contend for discrimination to the last.

Mr. JACKSON had also attended the conference, and with a disposition similar to that declared by the honorable gentleman from Delaware, (Mr. VINING,) but his convictions were directly the reverse. The proposed discrimination would irritate the nation against whom it is aimed, without being of any service to us. He thought the idea a mistaken one, though several States had adopted it. The State he represented, among the rest, pursued this plan of increasing the shipping; but he was bold to say, that not a single French vessel had been induced to come to Georgia, in consequence of the favor shown them by the discrimination; but the planter had paid the additional impost on all the British shipping they employed. He apprehended the same consequences would result from this clause, and therefore joined with the Senate in striking it out.

Mr. FITZSIMONS did not mean to go into any argument on this subject, but he thought it necessary for the United States to meet the regulations of Britain with other regulations; for that reason he wished the bill to pass as it went from the House; but if the Senate, or any other member of this House, thought proper to come forward with a more effectual plan, he would give it his support, and then repeal this part of the present bill. Yet he should be extremely sorry to lose the bill, as it was essential to the mercantile interest in the United States; for without the bill, English ships would pay no more duty than our own.

Mr. SHERMAN was well convinced there was a large and decided majority in both Houses,

and that it was the universal voice of the Union, that America should meet commercial restrictions with commercial restrictions; but there might be some disagreement about the best way to effect this point. He did not think it the voice of the people that Congress should lay the commerce of a nation under disadvantages, merely because we had no treaty with them. It could not appear a solid reason in the minds of gentlemen, if they considered the subject carefully; therefore it was not the proper principle for the Government to act upon. He would mention one that appeared to him more equitable, namely, lay a heavy duty upon all goods coming from any port or territory to which the vessels of the United States are denied access; this would strike directly at objects which the honorable gentleman had in view, without glancing upon other ports to which we are allowed access.

Mr. LIVERMORE approved the bill as it went up originally; but since there was great danger of losing it by persisting in the discrimination, he would accede to the Senate's amendment, hoping that something more effectual might be fallen upon; in the mean time, he consoled himself with the advantage the amendment procured to the revenue, for it was intended by the House to charge our allies but thirty cents per ton, whereas the Senate have set them all equal at fifty cents per ton.

Mr. MOORE favored the principle of discrimination, but feared if it were laid on tonnage, it would operate unequally; those States paying most who employed the greatest quantity of foreign shipping.

Mr. GOODHUE proposed to let the Tonnage bill lie on the table, in order to give the Senate an opportunity of originating a bill on the subject of discrimination, which the Committee of Conference had informed them was in contemplation. If the House consented to this, they might have their choice of the two schemes, and prefer the most eligible.

Mr. MADISON agreed to this expedient, though he doubted if any thing better could be procured. He should regret the loss of the bill, but he would be extremely sorry to give up the point. The House had shown a spirit of accommodation by giving up the discrimination in the Impost bill on brandy and spirits; and he believed it was on the principle of adhering more firmly to it in the bill now before them; he hoped, therefore, if the question was taken, that they would decide the point as they had hitherto done.

The question was put, by consent, on Mr. GOODHUE's proposition for letting the bill lie on the table; which being rejected,

The motion for agreeing with the Senate being about to be taken, Mr. LAWRENCE withdrew his call for the yeas and nays; whereupon it was decided in the usual manner; and there were twenty-five in favor of the motion, and twenty-six against it. So the question was lost.

Adjourned,

JUNE 29, 1789.]

Treasury Department.

[H. OF R.]

MONDAY, JUNE 29.

A petition from William Finnie, deputy quartermaster general in the Southern Department during the late war, was read, praying a reimbursement of moneys expended by him in the public service.—Ordered to lie on the table.

Mr. GOODHUE, from the committee to whom the collection bill was committed, reported, that the committee had prepared an entire new bill as an amendment and substitute to the former one, which was read, and ordered to be committed to a Committee of the whole.

A message from the Senate informed the House that they agree to the amendments proposed by the House to the Senate's amendments to the Impost bill.

Mr. SCOTT moved to take up the report of the committee appointed to consider and report the state of the unappropriated lands in the Western Territory, observing to the House that the Treasury bill embraced this matter, and he wished them to have the whole subject fairly before them, so as to connect it in a satisfactory manner.

Mr. BENSON wished the business of the Western Territory to lie over till the Treasury bill was gone through.

Mr. SEDGWICK reminded gentlemen, that their attention had been called to the treasury business last, and it would be best to finish it before they went upon fresh matter.

TREASURY DEPARTMENT.

Mr. SCOTT's motion being negatived, the House went into a Committee of the whole, Mr. TRUMBULL in the chair, on the Treasury bill.

On motion of Mr. VINING, the following words were struck out, being part of the powers assigned to the Secretary of the Treasury, "to conduct the sale of the lands belonging to the United States, in such a manner as he shall be by law directed;" and afterwards these were inserted, "to execute such services respecting the sale of the lands of the United States, as may by law be required of him."

Mr. BURKE gave notice that he meant to bring in a clause to be added to the bill to prevent any of the persons appointed to execute the offices created by this bill from being directly or indirectly concerned in commerce, or in speculating in the public funds, under a high penalty, and being deemed guilty of a high crime or misdemeanor.

Mr. MADISON observed, that the committee had gone through the bill without making any provision respecting the tenure by which the Comptroller is to hold his office. He thought it was a point worthy of consideration, and would, therefore, submit a few observations upon it.

It will be necessary, said he, to consider the nature of this office, to enable us to come to a right decision on the subject; in analyzing its properties, we shall easily discover they are not purely of an executive nature. It seems to me

that they partake of a judiciary quality as well as executive; perhaps the latter obtains in the greatest degree. The principal duty seems to be deciding upon the lawfulness and justice of the claims and accounts subsisting between the United States and particular citizens: this partakes strongly of the judicial character, and there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the executive branch of the Government. I am inclined to think that we ought to consider him something in the light of an arbitrator between the public and individuals, and that he ought to hold his office by such a tenure as will make him responsible to the public generally; then again it may be thought, on the other side, that some persons ought to be authorized on behalf of the individual, with the usual liberty of referring to a third person, in case of disagreement, which may throw some embarrassment in the way of the first idea.

Whatever, Mr. Chairman, may be my opinion with respect to the tenure by which an executive officer may hold his office according to the meaning of the constitution, I am very well satisfied, that a modification by the Legislature may take place in such as partake of the judicial qualities, and that the legislative power is sufficient to establish this office on such a footing as to answer the purposes for which it is prescribed.

With this view he would move a proposition, to be inserted in the bill; it was that the Comptroller should hold his office during ——— years, unless sooner removed by the President: he will always be dependent upon the Legislature, by reason of the power of impeachment; but he might be made still more so, when the House took up the Salary bill. He would have the person re-appointable at the expiration of the term, unless he was disqualified by a conviction on an impeachment before the Senate; by this means the Comptroller would be dependent upon the President, because he can be removed by him; he will be dependent upon the Senate, because they must consent to his election for every term of years; and he will be dependent upon this House, through the means of impeachment, and the power we shall reserve over his salary; by which means we shall effectually secure the dependence of this officer upon the Government. But making him thus thoroughly dependent, would make it necessary to secure his impartiality, with respect to the individual. This might be effected by giving any person, who conceived himself aggrieved, a right to petition the Supreme Court for redress, and they should be empowered to do right therein; this will enable the individual to carry his claim before an independent tribunal.

A provision of this kind exists in two of the United States at this time, and is found to answer a very good purpose. He mentioned this, that gentlemen might not think it altogether novel. The committee, he hoped, would take a little time to examine the idea.

H. OF R.]

Treasury Department.

[JUNE 29, 1789-

MR. STONE thought it necessary to have time allowed the committee for considering the proposition; it was perfectly novel to him, and he dared to say the same of many other members; but, at the first view, he thought he saw several objections to it. As the Comptroller was an inferior officer, his appointment might be vested in the President by the Legislature; but, according to the determination which had already taken place, it did not necessarily follow that he should have the power of dismissal; and before it was given, its propriety ought to be apparent. He did not know whether the office should be held during good behavior, as the gentleman proposed; for if it was intended to be held during a term of years, and then the officer to be re-appointed, if he had not been convicted on impeachment, it would be tantamount to holding it during all the time he behaved well. But he thought all officers, except the judges, should hold their offices during pleasure. He also thought it unnecessary to consider the Comptroller as a judge, and give, by an express clause in the bill, a right to the complainant to appeal from his decision. He considered this as the right of every man, upon the principles of common law, therefore securing it by the statute would be a work of supererogation.

MR. SMITH, of South Carolina, approved the idea of having the Comptroller appointed for a limited time, but thought during that time he ought to be independent of the Executive, in order that he might not be influenced by that branch of the Government in his decisions.

MR. SEDGWICK did not rise to oppose the measure, but to suggest some doubts of its effects. The first was, as mentioned by the gentleman from Maryland, (MR. STONE,) that the officer would hold his office by the firm tenure of good behavior, inasmuch as he was to be re-appointed at the expiration of the first term, and so on.

MR. MADISON begged the gentlemen would excuse him for this interruption, but he suspected he was misapprehended; he said the officer should be re-appointable at the expiration of the term—not re-appointed.

MR. SEDGWICK acknowledged he had misunderstood the gentleman; but, as he had now explained himself, he did not see that the proposition came up to the intention he had expressed: so far from making him independent, as a judge ought to be, it subjected him to more subordination than any other officer.

He also conceived that a majority of the House had decided that all officers concerned in executive business should depend upon the will of the President for their continuance in office; and with good reason, for they were the eyes and arms of the principal Magistrate, the instruments of execution. Now the office of Comptroller seemed to bear a strong affinity to this branch of the Government. He is to provide for the regular and punctual payment of all moneys which may be collected, and to di-

rect prosecutions for delinquencies; he is to preserve the public accounts, to countersign warrants, and to report to the Secretary. These are important executive duties, and the man who has to perform them ought, he thought, to be dependent upon the President.

He did not mean, by what he said, to give a decided opinion, but merely to suggest for consideration some doubts which had arisen in his mind since the subject was introduced.

MR. BENSON did not like the object of the motion, because it was, in some measure, setting aloft the question which had already been carried.

He wished there might be some certainty in knowing what was the tenure of offices; he thought they were well fixed now, if nothing more was done with the question. The judges hold theirs during good behavior, as established by the constitution; all others, during pleasure. He was afraid that the present motion would lead to a different construction from the one lately adopted; by devices of this kind, he apprehended the Legislature might overthrow the executive power; he would therefore vote against it, if it were not withdrawn.

MR. MADISON did not wish a decision on the subject, further than gentlemen were prepared.

When I was up before, said he, I endeavored to show that the nature of this office differed from the others upon which the House had decided; and, consequently, that a modification might take place, without interfering with the former distinction; so that it cannot be said we depart from the spirit of the constitution.

Several arguments were adduced to show the Executive Magistrate had constitutionally a right to remove subordinate officers at pleasure. Among others it was urged, with some force, that these officers were merely to assist him in the performance of duties, which, from the nature of man, he could not execute without them, although he had an unquestionable right to do them if he were able; but I question very much whether he can or ought to have any interference in the settling and adjusting the legal claims of individuals against the United States. The necessary examination and decision in such cases partake too much of the judicial capacity to be blended with the executive. I do not say the office is either executive or judicial; I think it rather distinct from both, though it partakes of each, and therefore some modification, accommodated to those circumstances, ought to take place. I would, therefore, make the officer responsible to every part of the Government.

Surely the Legislature have the right to limit the salary of any officer; if they have this, and the power of establishing offices at discretion, it can never be said that, by limiting the tenure of an office, we devise schemes for the overthrow of the executive department.

If gentlemen will consult the true spirit and scope of the constitution, they will perhaps find my propositions not so obnoxious as some seem

JULY 1, 1789.]

Tonnage Bill.

[H. OF R.]

to think. I did not bring it forward for immediate decision; I am very willing to let it lie over for further consideration.

The committee rose and reported progress, after which the House adjourned.

TUESDAY, June 30.

TREASURY DEPARTMENT.

The House again went into a Committee of the whole on the bill establishing the Treasury Department, Mr. TRUMBULL in the chair.

Mr. MADISON withdrew the proposition which he yesterday laid upon the table; and Mr. BURKE introduced his additional clause, which, after some alteration and addition proposed by Mr. FITZSIMONS and others, was made part of the bill.

The committee then rose, and reported the bill, with the proposed amendments, which were ordered to lie on the table.

WEDNESDAY, July 1.

TREASURY DEPARTMENT.

The House took up the report of the Committee of the whole on the bill establishing the Treasury Department; when the several proposed amendments were agreed to, and the bill was ordered to be engrossed for a third reading.

TONNAGE BILL.

A message was received from the Senate, informing the House that they had concurred with the House in an amendment, (by which the wording of the bill was somewhat altered,) but that they adhered to their amendment for striking out the discrimination in favor of the shipping of our allies, and against others.

The House proceeded to the consideration of the said message.

Mr. SHERMAN observed, that the House had the ultimatum of the Senate; therefore, all that remained was for the House to decide.

Mr. PAGE owned this to be a necessary bill, but necessary as it was, he would sooner lose it than renounce the doctrine contained in the contested clause.

Mr. FITZSIMONS saw, if the House persisted any further, that the bill would be lost; from a knowledge of this fact, he was induced to adopt the Senate's amendment; but he left them to answer for the consequences to their constituents and to the world. If gentlemen would take a retrospective view, they would see that the House had done all that was incumbent upon them to carry a measure through, which they conceived to be essential to the national interest; they had insisted upon their determination; they had adhered to their opinion; and now they were reduced to the alternative of losing the bill, or foregoing their sentiments. In this dilemma, he thought it best to accede to the proposition of the Senate, because the provision which this bill contained was all that the mercantile interest got for the sacrifices they had made in the Impost bill. They certainly expect-

ed some advantages from another part of the system, when they assented to pay all the duties in advance by way of impost.

Mr. VINING hoped, as the gentlemen had stood firm in three trials upon this point against the Senate, they would persevere to the end. He said it would be committing the dignity of the House to recede from an opinion they had so often solemnly declared, without any new argument being offered against them. But was it true, that nothing could be done if the bill was lost? Could not the subject be taken up in another, or might not the bill lie over for two or three weeks, in order to compare it with the discrimination intended by the Senate? But if the decision now took place, he hoped it would be as heretofore, otherwise it might be considered that the House was under the government of the Senate, and adopted their opinions without arguments being offered to convince their judgments.

He would not add a syllable on the propriety of the measure, because it was well understood.

Mr. SEDGWICK said, he was informed there was a very considerable majority in the Senate in favor of the amendment, and reminded the House there was but a majority of one on this floor when the bill was last before them. If, said he, we set out with a determination that a bill shall be lost, unless the whole body of the Senate will submit to a majority of one in this House, the whole legislative business must cease; because it is hardly possible that an independent body will submit in this manner.

The point in dispute is not, as has been intimated, the most important in the bill, which contains a discrimination in favor of our own navigation against all foreigners whomsoever; the other object is, a discrimination between foreign nations. In the first, and primary object, the Senate agree with the House: in the second, they only differ in the mode. If we would defend ourselves, and be really independent of foreign nations, we ought to make the first species of discrimination; but it does not follow that we ought to sacrifice this advantage because we cannot attain the other.

Nor can acting on the principles of conciliation be beneath the dignity of this House. There is a particular virtue in moderation; it often gains where it seems to lose. We may relinquish the discrimination in this bill, and bring forward another, in which we can contend for it without prejudice to any other concern.

The question was now reduced to this: whether we should prefer a small advantage to a great one? Whether the whole revenue arising from the foreign navigation should be given up for the sake of exercising a fanciful predilection and preference for one foreign nation over another?

Mr. STONE.—The constitution supposes, that the two branches of the Legislature may disagree, because it gives both Houses the power of proposing or concurring with amendments. If they have not this power, whenever the two

H. or R.]

Tonnage Bill.

[JULY 1, 1789.]

Houses disagree, the business would be at an end. The same consequence would result from the doctrine advanced by the honorable gentleman from Delaware, (Mr. VINING.) If it was honorable to adhere, neither House ought to retract its opinion; but, while the gentleman made this an argument in favor of our determination, what is to become of the honor and dignity of the Senate? Certainly he intends to compel them to make a sacrifice of it to what he thinks the public good. If this opinion is well founded, it must happen in every case of disappointment, where a law is passed by an accommodation, that one or both branches are dishonored.

If we cannot do all the good we wish, let us do all we can; and while we remember the present state of our commerce, we shall hardly be satisfied in our own minds with the loss of such an important bill. I have still the same opinion with respect to the discrimination, but I am willing to forego it, rather than lose the whole.

Mr. JACKSON was willing to go as far as any gentleman to obtain what appeared to be for the public good; actuated by this principle, he had given up his private opinion on the subject of tonnage, to what appeared to him to be the sense of the Union. He was well satisfied that the discrimination between foreign and domestic shipping would bear hard on the State from which he came, but he submitted to it. After having sacrificed so much, he would not attempt to defeat the bill by standing out for a trifling discrimination between foreigners.

He rose only to make this observation, and hoped other gentlemen would give up their private sentiments, when the good of their country required it.

Mr. GERRY informed the House, that the Senate had appointed a committee to prepare a plan for accomplishing the end proposed to be attained by the contested clause; he therefore hoped the House would accede.

Mr. VINING said, the clause had been carried through the House by a larger majority than there was in the Senate; but he owned the majority had diminished. But then the question did not turn upon the policy of the measure; it was barely whether the bill should be lost or not; yet, even on this question, there was a majority who would prefer losing the bill, rather than give up the principle.

He did not understand what gentlemen meant by the term accommodation, as applied in this instance. Was there any thing like accommodation on the part of the Senate? No, they insist peremptorily upon their amendment; they have taken no middle ground on which we could meet them; we must either give up the principle of policy, or lose the bill. They have not even informed the House that they meant to insist upon the principle, by applying for a joint committee, to frame a bill, for carrying it into effect, which they might have done with propriety, as the subject has been so long before both Houses. Perhaps it may be a question

whether they have authority to originate a bill of this kind; it is a matter of revenue; and, as such, must be exclusively brought forward by the House of Representatives.

He wished to accommodate the business, but it must be on other ground than giving up or abandoning the principle.

Mr. MADISON.—Those who suppose that the loss of the present bill will be irreparable, may do right to agree with the proposition of the Senate; but it does not appear to me in this light. I believe a bill might be substituted, within a convenient time, for securing the advantages to our own vessels, in as full a manner as is done by the present, about which neither House would differ.

It is said, that the Senate are nearly unanimous, and the majority here is but small; but, let me ask gentlemen, what is it that produces unanimity there, or has diminished the majority of this branch? It is not that either are averse to take measures for the vindication and support of our national interest. The Senate proceeds on the idea that the measures ought to be more effective, and gentlemen here are afraid of losing all in endeavoring to attain all. But if in this struggle the bill should fail, and the Senate does not adopt what is for the common good, they will be answerable for the consequences.

Mr. SHERMAN.—Every gentleman looks upon this bill as important to the commerce of the United States. Now, if it fails, I take it to be a clear point, that we cannot resume the subject during the present session. I submit it, therefore, to their prudence, whether they ought to agree with the Senate or not.

Mr. LAWRENCE requested gentlemen to think what an actual loss the revenues would sustain, besides the disadvantage to our commerce. He said it had been stated, in the course of the debate, that the shipping employed by the United States exceeds 600,000 tons, of which two-thirds are foreign; a duty of fifty cents would bring in a large sum. But admitting, as perhaps was near the fact, that something more than one-third is foreign, it must bring in \$124,000. Nor is this all that is to be considered; it will operate as a bounty to that amount, in favor of foreigners, if the bill be not passed.

Mr. PAGE would rather lose any bill, than have the doctrine established that this House must submit to the Senate; yet, if it was done in this instance, it would serve as a precedent in future decisions. The danger of losing the bill is an improper argument; it goes to destroy the balance of the constitution, and might be urged on every occasion when the policy of the measure is unquestionable. This was not his way of forming a decision; if the principles of a bill were just and politic, he would adhere to them at all events. But his principal reason for troubling the House, was to observe that the bill is not in so much danger as is apprehended, because, conformably with the rules of Parliamentary proceedings, a bill is not lost till after a second adherence; but if he was mis-

JULY 6, 1789.]

Collection of Duties.

H. of R.

taken, he thought the House had better continue their former decision.

Mr. GERRY observed, that it would be useless to originate another bill if this clause was inserted in it; but if it were to be left out, the House might as well save time, and pass it now without it.

The question being called for, and the yeas and nays demanded, they were taken as follows:

YEAS.—Messrs. Ames, Baldwin, Benson, Burke, Cadwalader, Fitzsimons, Gerry, Gilman, Goodhue, Hathorn, Huntington, Jackson, Lawrence, Lee, Livermore, Matthews, Moore, Partridge, Sedgwick, Sherman, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sylvester, Thatcher, Trumbull, Tucker, Wadsworth, White, and Wynkoop—31.

NAYS.—Messrs. Boudinot, Brown, Carroll, Clymer, Coles, Contee, Griffin, Grout, Hartley, Madison, Muhlenburg, Page, Parker, Van Rensselaer, Scott, Seney, Sturgis, Sumter, and Vining—19.

So the question was determined in the affirmative.

Mr. GERRY reported a bill for the establishment and support of light-houses, beacons, and buoys, and for authorizing the several States to provide and regulate pilots; which was read the first time, and then the House adjourned.

THURSDAY, July 2.

The engrossed bill establishing the Treasury Department was read the third time, passed, and sent to the Senate for concurrence.

The bill for the establishment and support of light-houses, beacons, and buoys, and for authorizing the several States to provide and regulate pilots, was read the second time, and committed to a Committee of the whole.

COLLECTION OF DUTIES.

The House then resolved itself into a Committee of the whole on the new bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States, Mr. TRUMBULL in the chair. After some time spent thereon, the committee rose, and asked and obtained leave to sit again.

FRIDAY, July 3.

COLLECTION OF DUTIES.

The House again went into a committee on the new collection bill, Mr. TRUMBULL in the chair.

A motion was made to strike out the clause which restricts foreign ships to particular enumerated ports, which occasioned some debate, the substance of which will be found in the former discussion on this subject. The motion was finally withdrawn.

Mr. GERRY then moved that the names of the particular ports which were the object of the above motion should be struck out, and the following words substituted: "Nor shall any foreign vessel enter or unlade but at those ports

to which a collector, naval officer, and surveyor, have been appointed." This proposition was also negatived.

The committee then proceeded to add several ports to the list, at which foreign vessels might enter, and to make other amendments to the bill. After which they rose, reported progress, and obtained leave to sit again.

MONDAY, July 6.

The SPEAKER laid before the House a letter from his excellency Beverly Randolph, Governor of Virginia, enclosing an account of the exports and imports of that State for the preceding year, which was referred to the committee appointed to prepare estimates, &c.

Mr. PAGE laid before the House the petition of Andrew Ellicott, praying that money may be advanced for defraying his expenses, and to enable him to execute an act of the late Congress, for determining the western boundary of the State of New York, and to ascertain the quantity of land lying west of the said boundary, and included between the northern boundary of the State of Pennsylvania and Lake Erie.

Ordered to be referred to Messrs. PAGE, SCOTT, and BALDWIN.

On motion,

Resolved, That there be prefixed to the publication of the acts of the present session of Congress a correct copy of the constitution of Government for the United States.

This resolution was sent to the Senate for concurrence.

COLLECTION OF DUTIES.

The House then went into committee on the collection bill.

Mr. CARROLL stated to the committee that the gentlemen from Maryland had met, and endeavored to accommodate the peculiar situation of that State to the principles of the bill, but he was sorry that they could not do it in a satisfactory manner. He reminded them how much the collection depended on the good will of the merchant, and what care ought to be taken to avoid oppressing one part of the Union more than another. There was a leading principle that ought to be established in order to give satisfaction, and that was, to make the regulations general; then no part could complain: but if the ports were variously restricted, it might tend to create some degree of acrimony towards the Government, among that class of citizens who had warmly patronized it, and upon whom much depended for furnishing it with revenue. He mentioned these general ideas to the committee, and hoped they would be carried along, and have their weight in every future regulation.

Mr. FITZSIMONS was well satisfied that the subject was difficult; the House had found it so, for they had labored the point for some weeks without success. He hoped every gentleman was disposed to concede something, in order to

H. OF R.]

Western Lands.

[JULY 13, 1790.]

bring the business to an end. He acknowledged the peculiar situation of the navigation of the Chesapeake and its numerous waters; but he begged gentlemen would not insist upon any extraordinary privileges on that account, if they could avoid it, because it would tend to retard the great work they had in hand; besides, as there was a likelihood of getting considerable revenue from that quarter, they ought to submit to more restraints to secure it, than those ports at which little or no business is done.

Several gentlemen contended that a spirit of mutual forbearance and conciliation was indispensably necessary; that concessions and sacrifices must be made to secure the great object in contemplation; and that every indulgence not incompatible therewith, would certainly be extended.

The committee then proceeded to the consideration of other clauses, and after some time spent therein, they rose and reported.

Adjourned.

TUESDAY, July 7.

A message from the Senate informed the House, that they had concurred in the resolution for prefixing to the acts of the present Congress a correct copy of the constitution, and had appointed a committee to act jointly with a committee of this House to examine enrolled bills.

COLLECTION OF DUTIES.

The House again resolved itself into a Committee of the whole on the new collection bill. Mr. TRUMBULL in the chair. After some time spent therein, the committee reported progress, and obtained leave to sit again.

WEDNESDAY, July 8.

Mr. PAGE, from the committee to whom the petition of Andrew Ellicott was referred, made a report, which was ordered to lie on the table.

COLLECTION OF DUTIES.

The House again went into a Committee of the whole on the new collection bill. Mr. TRUMBULL in the chair, and made further progress therein; but, not having got through the same, had leave to sit again.

THURSDAY, July 9.

Mr. GERRY, from the committee appointed to prepare and report an estimate of the supplies requisite for the present year, and of the net produce of the impost, as agreed to by the House, made a report, which was ordered to lie on the table, and be printed.

COLLECTION OF DUTIES.

The House, in Committee of the whole, Mr. TRUMBULL in the chair, again resumed the consideration of the new collection bill. Not having got through the bill, the committee again rose and reported progress.

FRIDAY, July 10.

COLLECTION OF DUTIES.

The House again went into a Committee of the whole, Mr. TRUMBULL in the chair, on the new collection bill; and after going through the same, rose, and reported the bill, with the proposed amendments, to the House. The House resolved to take up and consider the report to-morrow.

SATURDAY, July 11.

COLLECTION BILL.

The House proceeded to consider the report of the Committee of the whole on the bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States; and the proposed amendments having been read and amended, were agreed to by the House.

Ordered, That the bill, as amended, be engrossed for a third reading.

MONDAY, July 13.

WESTERN LANDS.

The House resolved itself into a Committee of the whole on the state of the Union, Mr. BODINOT in the chair.

Mr. SCOTT requested that the report of the committee on the Western Territory might be read, which was read accordingly, as follows:

Resolved, That it is the opinion of this committee, that an act of Congress should pass for establishing a Land Office, and to regulate the terms of granting vacant and unappropriated lands in the Western Territory.

Mr. SCOTT.—In endeavoring, sir, to open the interesting subject now before you, I shall avoid the repetition of those ideas which I threw out on a former occasion, as far as my memory will serve me, and the nature of the subject will permit.

This subject, sir, will appear of great magnitude in point of interest, if we consider the extent of the territory; I think I shall not be far beyond the mark, if I say it is one thousand miles long by five hundred broad; nor if I say it is sufficient to contain two millions of farms; nevertheless, for greater caution, say it will contain one millions, (which is notoriously and greatly within the real contents,) and that each of these farms may be peopled by six souls, they will amount to six millions of inhabitants, double the number of the present inhabitants of the United States. From this view, it is an object of great concern. It will appear also an object of concern, if we contemplate the climate, the soil, and the waters of that country; consider that it lies in the heart of the temperate zone; its soil infinitely more rich and more fertile than any in the Atlantic States; its waters pure and good—in a word, it is such a territory as must command inhabitants, and will be peopled. Its situation in the middle of our conti-

JULY 13, 1789.]

Western Lands.

[H. OF R.]

ment, gives the climate a salubrity that accommodates it to the emigrant from both Northern and Southern States. It is meeting them on a middle ground, softening the harsh restrictions of the rugged North, and breathing bland the zephyr grateful to the sun-scorched South. In short, it is such as gives to all who have seen it the utmost satisfaction—it is both healthy and agreeable.

If we consider the sources of wealth in that country, we shall at the present moment view it as a subject of no inconsiderable magnitude. From that country has been drawn, and hereafter may be drawn, considerable quantities of the most valuable exports our country affords; but of this the gentlemen in trade can give you a better account than I shall pretend to do; but I am of opinion the trade, and the furs and peltry it produces, are of great consequence to our commerce.

It will appear further, to be a subject worthy of our consideration, if we attend to the profit already derived to the United States from the sale of the soil, and which may be extended to any degree whatever; this will prove a valuable source for relieving the embarrassments to which the United States are subjected. But a very inconsiderable part of the soil, and that far from being the most excellent, has been disposed of, yet the sales amount to 4,936,863 dollars; land for almost five millions of specie dollars has been already sold in that district, a sum amounting to near one-fifth—to more than one-sixth—of the whole domestic debt of America. This treasure, which we possess, has done thus much towards extinguishing a debt bearing hard upon every part of the Union. Have any of the States done as much? Have any of them made an exertion equal to this inconsiderable effort? No, they have not. Have all the States together done as much? No, they are incapable of doing what this wilderness has done. This consideration alone renders it an interesting subject of immense future consequence, and worthy of the immediate attention of Congress.

We may consider further, that besides the sales, we have made satisfactory donations to the officers and soldiers of the late army, which may be fairly carried to swell the account; but after all this, the parts we have disposed of bear no proportion to the parts yet remaining, and from which money may be drawn. Can we hesitate then to call into operation a fund so immense and important to the immediate interests of the United States?

If we place it in another point of view, it will also appear a subject in which the United States are deeply engaged in point of national honor and good faith. The officers and soldiers to whom we made those donations, as a part of the price of their blood, and a reward for their long enduring toils and painful sufferings in the noblest cause, the freedom of their country, are certainly entitled to the fatherly assistance of Congress, in point of protection

and government. Can it be thought, without an outrage to humanity, that Congress intended to send them into the wilderness as outcasts from society—that the hand of Government should not be extended to them to protect them in their lives and property—that our gift was an abandonment, was an allurement to draw them without shelter, and leave them devoid of those blessings which their successful efforts have secured to us? My spirit rises indignant at the unjust suspicion.

But these are not the only circumstances in which the honor of Congress is engaged to extend its fostering care into that country. It is expressly stipulated by Congress, with the State of Virginia, that the French and Canadians, and other ancient settlers within her cession, should be protected and governed by Congress. These were, among other terms, agreed to by Congress when the conveyance of that territory was made; and Congress, by that act, plighted the good faith of the Union for the faithful performance thereof. People have gone upon those lands; they have been regularly purchased, and are paid for; they are consequently entitled to look to us for protection in their property.

A due observance of the treaties heretofore entered into with Indian tribes, must be enforced; if the country is settled by a lawless banditti, they will keep the nation in a perpetual broil with the savages; therefore, the guidance of the United States must go with the settlers, in order to procure the observance of such treaties. This is a further obligation in point of national honor and good faith, under which we lie with respect to that country.

I am likewise of opinion, that we shall find it a subject of considerable magnitude in point of policy. I presume the first two points will be readily given up, because they are incontrovertibly established by facts; but I feel aware that the point of policy may be contended with me. It may perhaps be objected, that the measure now proposed will lead or tend to a depopulation of the Atlantic States, and therefore ought not to be adopted. This is a circumstance I by no means wish. I am as far from desiring a depopulation of the Atlantic shores, as I am from fearing it on this ground. I am confident it will not operate in any considerable degree to bring about that event; but if it should be thought it would, that could be no solid objection against the measure. Whilst the desire of emigration continues, and lands are to be procured, settlers will find their way into that territory; nor is it in the power of Congress to withhold lands altogether, because they are to be got of others on better terms. There is superior encouragement held out to the people settling on the other side of the river Mississippi, where the soil is fertile, and the climate equally agreeable. In proof of this assertion, I will read to the committee the translation of a kind of proclamation issued by the Governor of the Spanish posts at the Illinois. [This paper contains an invitation to all persons inclined to

H. or R.]

Western Lands.

[JULY 13, 1789.]

settle in the Western country, offering as inducements, lands without charge, exemptions from taxes, protection in civil and religious liberties, besides provision and the implements of husbandry.] After this, Mr. S. proceeded: Now, sir, if Congress fear to sell their lands lest it tend to depopulate the Atlantic States, what must they apprehend from propositions like these? They will certainly have all the effect which encouragement from this quarter can have. It may be said, that Americans will not venture to live under the Spanish Government, or settle a Spanish colony. To this it may be replied, that when people, from their necessities or inclinations, are determined to emigrate, in order to mitigate their distresses, they think little of the form of Government; all they care for is relief from their present or approaching wants and troubles.

Nobody will emigrate from the Atlantic States but a certain description of men, and they will go whether you hold out this encouragement to them or not; they will pay little regard to Congressional restrictions. And here let me make one remark, drawn from my own observation. The forming settlements in a wilderness upon the frontiers, between the savages and the least populated of the civilized parts of the United States, requires men of enterprising, violent, nay, discontented and turbulent spirits. Such always are our first settlers in the ruthless and savage wild; they serve as pioneers to clear the way for the more laborious and careful farmer. These characters are already in that country by thousands, and their number is daily increasing, and will continue to increase; for congenial spirits will assimilate maugre all our endeavors to the contrary. But how will you prevent them? I should be glad to see a plan for hemming in the emigration to that territory; I think the thing wholly impracticable, therefore it becomes the immediate interest of Congress; to direct the emigration to a proper point; direct it to their own territory, rather than be inactive spectators of its silent, though rapid course to the Spanish and British dependencies; rather sell your lands and get something for them, than let your citizens leave your dominions. By improving a part, you add to the value of the remainder; their population will produce a hardy race of husbandmen and warriors, always at the command of the United States, to support and defend your liberty and property. These being facts, I leave it to the wisdom of the House to draw the inference.

I will make one further remark, with respect to the encouragement or discouragement of emigration. Suppose it was in the power of Congress to stop the course of the impetuous current, which has already won its way through insuperable obstructions, and spread itself over the fertile lands of the Ohio. I ask, with perfect security, if it is not such an act of contumacy, and inconsistency with the fundamental principles of the Government, that Congress

could not adopt it? Consider that many of your citizens are destitute of the comforts, nay, the common necessities of life, without a prospect of providing for the subsistence of themselves and families: I ask, would Congress prevent the emigration of such persons if they could? I think not; they would not act as kind protecting fathers to their people if they did. I presume this would be too serious an objection for any man to face, with a restraining proposition. I question if any man would be hardy enough to point out a class of citizens by name, that ought to be the servants of the community; yet, unless that is done, to what class of the people could you direct such a law? But if you passed such an act, it would be tantamount to saying that there is some class which must remain here, and by law must be obliged to serve the others, for such wages as they please to give.

This being the case, let us make the best of liberty, our people, and our land. Your citizens, I tell you, are already there by thousands; they are going by thousands more, and are every hour growing up into consequence. They never expect to return into the Atlantic States; plant them in your soil, add this wealth of population to your own, and form an empire illustrious as it is extended. Remember, ye sages of my country, an historic truth recorded for your instruction, that empire has been slowly, but invariably, moving from East to West; emigration has uniformly receded in that direction, from the time that our common parents quitted the garden of Eden, till the present hour; nor doubt but it will continue to pursue that course, as long as there are lands to be inhabited.

Those people, Mr. Chairman, who are there, growing up, must be provided with a Government in that country. Perhaps to this it may be objected, that they will not long continue in union with us. Perhaps arguments may be brought from the other side of the Atlantic, and we may be told with confidence than an extension of territory is infallibly the ruin of kingdoms. For examples in support of this opinion, we may be carried as far back as the eleventh epocha of the Romans, and there we may learn from judicious writers that the weight of the distant provinces brought about the fall of that empire. Now if I could grant this to be a fact, which I cannot, for I rather attribute that event to the pernicious privileges granted, and the immense sums thrown away on the capital of Constantinople, while the preservation of the ancient city was so difficult, and the division of the empire among the children and nephews of Constantine; but if it could be attributed to the extent of her territory, the comparison does not hold. The foundation of the Roman empire was laid upon fraud, rapine, and murder; they conquered, and their footsteps were marked with the blood of men more civilized than themselves; or they, with their wives and daughters, were carried captives, and sold at the shambles of Rome; their territory was laid waste, and colonies of children, purchased of their parents,

JULY 13, 1789.]

Western Lands.

[H. OF R.]

were founded upon their ruin. Was it to be supposed that men would bear this savage barbarity longer than the arm of victory was pressing on them? Is this the manner in which we propose to settle the Western country? The comparison is too odious to be insisted upon.

There is a striking difference between the Government of the United States and that of the Roman provinces. The citizens of the first are bound together in the bond of equal liberty, and every State possesses within itself independent powers necessary to its support. The wretched inhabitants of the Roman provinces were the abject slaves of their lordly masters, who seldom behaved with moderation; their history is nothing but a series of injustice more or less disguised.

Another instance may, perhaps, be drawn from the separation of this continent from Great Britain. Here I would make two remarks: the first is, that the Atlantic ocean, of three thousand miles extent, formed such a natural boundary as to be a reason for separation when we should be prepared for it: the second is, that even this natural boundary did not furnish the reason for our independence. We were driven into that measure by necessity: our separation was brought about by the impolicy and oppressions of Great Britain. She wished to deprive us of the fruits of our industry, by establishing the doctrine of the omnipotence of Parliament, and wanted to attach us to them as provinces of slaves. I will not say, that if a like conduct were to take place on our part, with respect to the Western country, similar effects might ensue; but this can hardly happen under a Government founded upon the true principles of democracy; besides, I think we have had a sufficient lesson before our eyes to guard us against the attempt.

Much will depend upon the energy and force of the Government established in that country; it ought to be such as will furnish sufficient power for its own internal purposes, and also to secure it to the Union. But that is not the only tie by which its union is held. That country is attached to the Atlantic States by its natural situation. To be convinced of this truth, nothing more is necessary than to look upon the chart: all the commerce of that country must come through the States upon the sea-coast. We know, at Pittsburg, that we are a thousand miles nearer to the market than settlers at the mouth of the Ohio river. When we export our produce by that and the Mississippi, we know we can get easier home with our returns by the way of Philadelphia, than the others can by turning up and stemming the current of the Mississippi. Therefore, the imports for all that territory must come through the United States. From these considerations, I conclude it would be madness in the extreme for them to think of a separation, unless they were driven to it by a fatal necessity; they will be too sensible of its ill effects ever to attempt it.

But suppose, for a moment, that they break

off from the Union, and even become our enemies, it would be good policy in us to get as much as we can from them first, especially as they are disposed to give it us; let us make them extinguish part of our national debt before they leave us. The soil and climate of that country, as I said before, will be great inducements for emigrants to settle there. If they were to break off, they would know how to get money enough from the sale of the territory to support their Government, without any other resource whatever. If I, as a resident in that country, had the remotest view of a separation from the Atlantic States, I should be sorry to see Congress sell an acre of that land; for selling it, in that case, would be neither more nor less than preventing us from putting the money into our pockets when we became independent. If they meditate independency, the most likely way to make them so, will be to let their lands alone, in order to supply them with funds sufficient to support them in the measure. If they are sold, it will not be in their power.

Another consideration which shows the subject to be of great consequence to the Union, is the sales already made there, a partial mention of which I made in one of my former observations. By the terms of those sales, the United States are obliged to complete the surveys; this has not hitherto been done; of consequence, the money due for them cannot be had, nor the accumulating interest be suspended. The amount, as I stated before, is near five millions of dollars: of this sum, \$771,310 have been paid into the Treasury; the whole of the remainder will continue unpaid till the surveys are completed, namely, \$4,165,553, paying a daily interest of \$684½. This, gentlemen, is what we actually lose every day, for want of establishing some regulations on the subject. Is not this a matter of serious concern to the people of the United States, which requires our immediate attention? Then, if this is the case, if the subject is of such vast magnitude in all these points of view, it only remains to consider what is to be done with respect to it to procure the greatest good to the United States, and greatest benefit to the people.

I apprehend it will be found that a Land Office will effect these objects better than any other plan that can be devised. If this should be effectual, and no doubt can be entertained but it will, the inhabitants of the United States cannot, with a good grace, be called upon for heavy taxes in order to pay the interest on a debt which can be so easily and properly extinguished. Every individual who contemplates the subject, will see how much it is his interest to buy a few dollars in certificates, and purchase a piece of land with them, which will annihilate the debt, and prevent the demand for taxes to pay the interest; besides, it will remain as a security to reimburse the principal to the proprietor, as the population of the country extends; but, at all events, it would be but advancing four or five years' interest, and the

H. OF R.]

Western Lands.

[JULY 13, 1789.]

whole debt would be absorbed. How much better is this than paying interest during our lives, and leaving our children to discharge the principal, or continue on their own shoulders the burthen of an annual interest of six per cent. From this view of the subject, it would appear every man's interest to become a purchaser in that country. This mixing of the interest would incorporate the body, and tend to increase the bands of union; it will occasion ties of consanguinity and affinity among us, which, added to the similarity of laws, customs, and manners, will form an inseparable cement, and compress the whole into the closest union. If it should be thought inconvenient for the citizens in the Atlantic States to purchase so largely as I have intimated, let them lay out but the amount of one year's tax in this way, and it will nearly extinguish the domestic debt, for which, otherwise, they will have to pay annually, forever, an equal sum to what I propose for them to advance. By the establishment of a Land Office such purchasers could be supplied.

I think this plan better on another consideration. If we mean to sell our lands for ready money, or mean to trust, we have a superior advantage. It is more probable that the necessitous person who wants the land for the subsistence of himself and family, will labor harder to procure a property of this kind, and secure it for himself, than the speculator who never means to pay a farthing until he has received it from the sale of the land; besides, the necessitous person is better able to buy of Government than of the speculator, because he can get it cheaper. The purchasers of large tracts retail out their land to this class of men, and certainly charge them something for their trouble. But if we sell on credit, as under the Proprietary Government was the practice in Pennsylvania, those who take out small quantities get their land surveyed, and set themselves down; they cultivate the ground, and erect buildings for their own accommodation. Land, in this improved state, furnishes a better security to Government for any arrearage of purchase money, than a large tract sold on speculation, and which lies in the same state of nature as it did when it was disposed of, perhaps adding thereto the expense of making the survey. If the land must revert to Congress at last for default of payment, we get nothing in the latter case; whereas, when sold in lots, if a man has settled himself down, and paid for his warrant and survey, which costs the Union nothing, but for the first price and interest thereon, it must strike every gentleman's mind that it would be disagreeable, after a man had made a settlement for three or four years, to have to turn out. Rather than do this, he would make every exertion to discharge the price; if his situation was so wretched as not to furnish the means, some of his neighbors, on such security, might befriend him; but at any rate Government would be secure. By this argument, I do not mean to insist that Congress should sell

their lands on trust; they may do so, or sell for ready pay, as their wisdom may think eligible. I shall be satisfied either way.

This plan does not prevent the sale of large tracts, (your million acre purchasers may be accommodated with the quantity they desire;) it only admits the sale of smaller quantities; and to that kind of people who stand in need of land, this plan would be much better than the one heretofore pursued. It would be an immense saving, we should have no expense attending on the sales, no surveys to pay for, which have already been very expensive. We find that two thousand and eighty-one miles of a common survey line, has been run, at the rate prescribed by Congress, to 20,690 specie dollars, more than nine hard dollars for every mile. This expense is absolutely so enormous, that Congress had better give away their lands to those who will take and settle them, than pay it.

I think the convenience of the people is a subject not unworthy of being taken into view. My plan proposes that they should be able to perfect their titles on the spot. I fear not the objection which has been raised. It may be said, the titles ought not to be completed until it was done immediately under the eye of Congress. Let this be as it may, I will make one remark: can we not have every tie, every check, and security upon these officers that we have upon the collectors of the revenue? I think there is as much room for confidence in the one case as in the other. We can take care that the Secretary of the Land Office shall send in his accounts of patents and warrants. I think we may depend here upon a true return.

The Receiver of the office shall take nothing but public securities, which are not quite so great a temptation to embezzlement or illicit practices as money. The Surveyor will be a check upon both. I think the gentlemen employed in this business cannot be of very trifling character. In short, this department may be as well checked and balanced as any other; the expense of it will be nothing, because the officer may be supported out of the fees. This being the case, I shall conclude with moving that the committee adopt the resolution reported by the committee, and recommend it to the House to appoint a select committee to bring in a bill accordingly.

Mr. FRIZZIMONS asked if it would not be better to settle all the principles of the bill first, that the select committee might not lose their labor, as had been once or twice experienced, for want of this precaution.

He was in favor of some measure of this kind, though he had some doubts of the necessity there was supposed to be of establishing a Land Office.

The question was now taken on the resolution, and agreed to.

Mr. SCOTT then brought forward a string of propositions, to be put into the hands of the select committee, containing the principles upon which he wished the Land Office established, and the manner in which it should be regulated.

JULY 13, 1859.]

Western Lands.

[H. of R.]

One proposition was, to place the office under the direction of the Governor of the Western Territory.

Mr. STONE objected to this, because he conceived the Legislature would in this case appoint the officer, which is contrary to the constitution.

Mr. SHERMAN thought it best to delay the decision of this subject. It is certainly a matter of high importance to the Union, that this land be disposed of in the best manner. No doubt, if it is properly managed, but it will pay the principal and interest of all the debts of the United States, said he; but I have great objection to the manner of settlement proposed by the honorable gentleman from Pennsylvania. I think it would tend to greater advantage, to settle the country gradually, in compact bodies, as the inhabitants can be spared from the other parts of the Union. But this business ought to be managed with a degree of caution, lest we open a door to that field of speculation in the certificates of the United States, by which the holders of the securities may be treated with injustice.

It will be a better plan to settle the country by townships; so far I would be willing to go, and also make arrangements for completing the survey of those tracts already disposed of. Perhaps it might be well to give some of the township lots to settlers, without any charge, reserving others to sell at some future day, when they become more valuable, in consequence of the settlements around them. I apprehend we should get more money in this way than in that proposed. If men are to take out warrants, and lay them where they please, the settlers will break up the ground, and we shall be forced to sell after a while, for less money, because the lands will be picked and nothing but the refuse left; besides, people not knowing where others have located, may take up the same lots, and lay a foundation for eternal lawsuits and discontent.

Mr. LEE thought the Land Office ought to be at the seat of Government, consequently he differed from the gentleman from Pennsylvania (Mr. SCOTT) in his first principle. This being the case, he advised the rising of the committee, and wished the appointment of a select one, to investigate the subject, to examine all papers and contracts respecting the Western Territory, both of Congress and the several States, the deeds of cession, and the articles of confederation; from the report of such an examination, the House might be able to discover some proper plan for conducting the business. The magnitude of the subject demands the fullest investigation, and the wisdom of the Legislature will no doubt induce them to treat it according to its importance. He had no other view in moving the rising of the committee; but if gentlemen insisted upon a decision, he should vote against the resolution.

Mr. SCOTT.—The first gentleman who remarked upon my proposition, thinks we have no right

to appoint the officer who is to direct the business. If I understand what I brought forward, it does not go to appoint the officer, but to give additional duties to an officer already appointed; therefore, that objection falls to the ground.

The gentleman last up alleges, that the Land Office ought to be at the seat of Government. I would ask him if all those who want the lands live at the seat of Government? or rather will not the applications come from the remotest corners of the continent? It will be more difficult for real settlers to go to the seat of Government, than to purchase the land; but will it accommodate any class of men? There are few, who know what they are about, will come here to buy land, and then go up to the Ohio to look for it; if they act the part of prudent men, they will go and see the land first, and when they are there, they can more conveniently apply for what they want, than return by a circuitous march to the seat of Government for that purpose. I had the convenience of the purchasers in view when I made the proposition, and by far the greater part of them reside in the neighborhood. Men who are well able to pay you the price of the land cannot afford to travel to New York; they would be losers by the bargain if you were to give them the land without charge, for a journey down here would require three times the price of a common farm.

The gentleman from Connecticut (Mr. SHERMAN) seems to run away with an idea of settling that territory that can never take place; it has been tried without any success; the experiment shows that it tends to cull and destroy the land more than any other mode; besides, a man will give a third more for a spot of ground when he takes his choice, than he will if obliged to take it good or bad as it may be. There is no necessity for compelling people to settle close together in townships; the nature of the country and dread of the Indians will force them to do this; they always settle in strong parties for their own convenience.

The late settlers from New England experience the inconvenience of settling by townships; if they had suffered the pioneers I spoke of to precede them, their settlements would be more safe than they are.

Mr. SEDGWICK had no doubt of the necessity and propriety of disposing of the lands in the Western Territory, but he thought the office ought to be kept at the seat of Government, because it would be necessary to check the enterprising spirit which might grow up under the regulation. He knew much might be said on both sides; but he thought the people who were generally the first settlers on a frontier, were of that class who had little money or property, and consequently unable to purchase; if they wanted real purchasers, they must go to those who had the money to pay; not that he meant to argue against the accommodation of the one class or the other; indeed, he should be happy to serve both, if it would enable Congress to get the best market and highest price for their lands.

H. or R.]

Compensation of the President, &c.

[JULY 13, 1789.]

To bring the question fairly before the committee, he would move to strike out "Governor of the Western Territory," and insert "the principal officer of the Treasury Department."

Mr. VINING said it was a very important subject, but perhaps gentlemen were not prepared for a decision; if so, the question had better be put off till to-morrow. For his own part, he felt some diffidence in saying much on the subject, but he agreed perfectly with the honorable gentleman from Pennsylvania (Mr. SCOTT) in the principles of his plan. He concluded with moving that the committee rise.

Mr. MOORE thought very well of the plan, but was not prepared to decide. He suspected that if the last motion obtained, it would tend to favor speculators, and therefore he should be against it. He believed there was some justice in the observations thrown out by the gentleman from Connecticut, (Mr. SHERMAN,) but this might be complied with by limiting the sales to certain boundaries, that so the purchasers should not run over the whole Territory.

A desultory conversation arose, whether the resolution reported by the select committee, and adopted by the Committee of the whole on the state of the Union, should be reported to the House; when it was understood to be only one of the number brought forward by Mr. SCOTT, and, as such, not to be reported till the whole were gone through.

The committee now rose, and Mr. BOUNDIN reported that the committee, according to order, had the state of the Union under consideration, but had come to no resolution thereupon.

COMPENSATION OF THE PRESIDENT, &c.

Mr. VINING wished to call the attention of the House to a business he apprehended not very lengthy; it was the report of a committee on the subject of compensation to be made to the President, Vice President, the members of the Senate and House of Representatives, for their services; he wished gentlemen to consider the situation of every one concerned in this business, themselves, and the continent at large. He hoped they would consent to take it up, and he flattered himself the discussion would not last longer than a day.

Mr. WHITE wished to go into a Committee of the whole on the business.

Mr. FRIZZIMONS did not like to enter upon a lengthy discussion of a point that was incapable of much elucidation by reasoning; he therefore was against going into a committee at this stage of the business. He observed, that the committee had reported something, and the members had been pretty generally consulted on the same. He hoped the House would despatch the business without delay or loss of time, if they were at all inclined to take it up.

Mr. WHITE thought it necessary to go into a committee, because there were a number of things mentioned, the reasons for which appeared to him very uncertain.

Mr. VINING said it was a subject of considerable delicacy, and he supposed very few gentlemen would be inclined to speak three or four times on a point; yet this was all the advantage gained by going into a committee. He was no more interested than others; every gentleman might judge of his own case, but after it had been before a committee of twelve, in order to get the fullest sense of the House upon the subject, he was inclined to receive it without so much circumlocution. He observed, that the business had originated in a Committee of the whole, and it was unusual to recommit it without showing some reasons why.

Mr. WHITE gave up his motion for a Committee of the whole, and said, before he consented to the report, he should be glad to know in what style it was expected that the President would live. He observed there was provision for the expenses of a house, furniture, secretaries, clerks, carriages and horses. Perhaps the sum proposed might be too much or too little. He should like to see an estimate of how much was necessary for keeping the table, the equipage, &c. before he decided. He hoped the committee would elucidate this subject.

There was another thing he wished to inquire of them. The Vice President's salary was charged at five thousand dollars; he could not conceive upon what principle that sum was reported. Did it bear a proportion to his services, or was it in proportion to what the members of the Senate and this House were to be allowed? There is nothing which obliges him to be attentive to his business. No doubt but the gentleman who holds that office at present will be regardful and diligent in executing the business assigned him; yet there is nothing to prevent the Vice President from residing at home and receiving his salary, without coming within the walls of the Senate-room. The Union is obliged to support him; but I, said he, would make that support conditional; he should have a liberal provision while in public life, but no longer. As to delicacy, I know of none, sir, that ought to be used while we are in pursuit of the public good. I speak therefore with candor what are my sentiments on this subject. Other gentlemen, no doubt, do the same; but I am clearly for examining into the principles before I agree to the conclusion.

Mr. PAGE was sorry to see gentlemen spinning out the time to little purpose; certainly, after having the subject under consideration for nearly three months, they might be able to decide.

If this business was fixed, and gentlemen knew they were to have but moderate salaries, it might perhaps tend to make them more expeditious; but at all events, they ought to know the rate at which they attend, in order to regulate their expenses. To some it might be a matter of no concern, because they could bear every thing of this kind for a twelve-month, without inconvenience; but they ought to consider the situation of others. We are, said he, keeping the President here without any provision

JULY 13, 1789.]

Compensation of the President, &c.

[H. OF R.]

for his support; but in this we may think ourselves right, because, in his patriotic ardor, his love for his country, he told us he was willing to pursue that illustrious example which he set during the period of our calamity; he refused compensation for his services. But the constitution requires that he shall receive a compensation, and it is our duty to provide it. We must also provide something for our own expenses, or it may reduce gentlemen not better prepared than I am to depend upon a friend for what the public ought to furnish.

Mr. VINING had said the subject was delicate, but he did not conceive there was any indelicacy in asking or answering questions on this or any other occasion, where the good of his country was concerned.

Mr. LAWRENCE did not know, whether the sum proposed was enough for the President or not; but according to the terms of the constitution, it ought to be granted as one sum, because he is to receive no other emolument whatever from the United States, or either of them. Now, if it is declared he shall receive twenty thousand dollars, and, exclusive of that sum, we make him an allowance for furniture, horses, carriages, &c., such an allowance is an emolument beyond the compensation contemplated in the constitution; but I have no objection to blend these sums together, declaring the whole to be the compensation required by the constitution. Besides, if we establish salaries for his secretaries and clerks, we establish them officers of the Government; this will be improper, because it infringes his right to employ a confidential person in the management of those concerns, for which the constitution has made him responsible. For these reasons, Mr. L. moved to strike out all that related to horses, carriages, furniture, &c.

Mr. SHERMAN thought it much better to give a net sum, because the President would then have no accounts to settle with the United States.

Mr. SEDGWICK considered this a constitutional question, and therefore thought it deserved serious investigation. The provision made in the report, for paying the expenses of enumerated articles, does not leave the President in the situation intended by the constitution, which was, that he should be independent of the Legislature, during his continuance in office; that he should have a compensation for his services, not to be increased or diminished during that period; but there is nothing that will prevent us from making further allowances, provided that the twenty thousand dollars is all that is given as a compensation. By this construction, one of the most salutary clauses in the constitution will be rendered nugatory. From these considerations, he was led to believe that the report was founded on unconstitutional principles.

Mr. BALDWIN said, the Committee of the whole, when the business was before them, had not determined any thing on this point; that,

consequently, the select committee were to frame a report upon such principles as they judged proper. In order then to have every thing distinct and accurate, they had brought their opinion forward in the form it now appears. If it be deemed proper to grant an aggregate sum, the House would no doubt add to the twenty thousand dollars, what it was supposed these expenses would amount to.

However, he did not think the constitution was infringed; it was intended that the compensation should not be increased or diminished, during the President's continuance in office. Now it might be as well fixed, by making the allowance in part money, and part furniture, &c. as by declaring a precise sum; it will still be a stated compensation.

Mr. TUCKER thought furniture and plate ought always to be provided by Government, because, if it was necessary for every new President to buy these articles, it might put him to great inconvenience, unless he received a year's salary in advance; besides, when he retired from his situation, they would not sell for half the first cost. He therefore wished this part of the report to stand, together with the rent of a house; but would join in striking out all the rest.

Mr. MADISON did not think the report interfered with either the spirit or letter of the constitution, and therefore was opposed to any alteration, especially with respect to the property of a fixed nature. He was sure, if the furniture and plate, and house rent, could be allowed, some of the other articles might also. The horses and carriages will cost money, and sell for little, after being used for four years; this will be a certain loss to the President, or his family; besides, the House have already undertaken to defray expenses of this kind, and so set a precedent for the enumeration which had been reported.

Mr. WHITE said, if a certain sum was assigned for the expenses, the report would be better; but as it now stood, there was no certainty in it. One President might circumscribe it to a quarter part of the expense another would; consequently, the compensation could not be fixed.

He admitted the propriety of paying the salary in advance for the first year, as mentioned by the gentleman from South Carolina. He expected this would be sufficient to defray the extra expenses without subjecting the President to any inconvenience.

Mr. BODINOT.—If the Legislature may provide the house and furniture, they may go further on the same principle, and provide for the rest; he was satisfied it should be so, because it could be no infringement on the constitution.

Mr. LIVERMORE hoped the words would be struck out; indeed he was sorry they had ever been put in. The clause in the constitution is intended to tie down the Legislature, as well as the President; they shall make him no com-

H. OF R.]

New Jersey Elections.

[JULY 14, 1789.]

pliments while in office, he shall receive nothing but a fixed compensation for his services. Give him then this compensation, let it be equal to his usefulness; but do not direct him to employ so much to one use, and so much to another; it cannot be called a compensation when you direct how it is to be expended; besides, it was wrong on another account; why should we pretend to direct him in the style in which he shall live? Let him have a salary, and expend it in the manner he shall think proper.

Mr. PAGE was for striking out all the words, because he conceived it would be against the spirit of the constitution. It would be much more handsome to make one general provision, than to be thus particular in enumerating the articles of expense. It has been hinted, that these articles of expense would amount to half the sum mentioned in the report to be given as a compensation; if so, he would propose to strike out all that related to the subject, and so insert twenty-five or thirty thousand, as the House shall deem most eligible.

Mr. STONE thought the President ought to be at liberty to live in any style he thought proper, and that the House ought to give him such compensation as they thought his services merited. If you furnish him with a house, horses, and carriages, you declare that this is the house, the horses, and the carriages which he shall use. There is certainly some degree of indelicacy in this; if he was a private gentleman, he would be at liberty to use such as he liked best. Suppose he dislikes them, and will not have them, he is guilty of a breach of the law, is it intended by the House to impeach him for it? I apprehend it is not, for no part of the constitution gives us a right to dictate to him on this head. He would rather let the President set the example how he ought to live, than see the Legislature direct him. Economy is by no means disadvantageous to the United States; if the President chooses to live in an economical manner, we ought not to prevent him.

Mr. VINING thought, as the President was the representative of the nation, that there ought to be a proper degree of dignity attached to the office; he did not wish for splendor, but hoped to avoid the appearance of penury. If he was right in this opinion, the House had a right to show what they expected of the President, and, consequently, had a right to enter into the enumeration proposed in the report, and establish a uniform rule of conduct in the presidential chair.

With respect to its constitutionality, his mind was perfectly easy, the constitution appeared to be silent; if so, the House had the right of interfering. He wondered how gentleman could agree to provide plate and furniture, yet hesitate with respect to the clerks and secretary. Were not the latter as necessary as the former? If so, they ought to be equally provided for.

The question on Mr. LAWRENCE's motion was now taken, and decided in the affirmative.

Mr. PAGE now moved to strike out twenty thousand dollars, and insert thirty thousand.

Mr. SMITH inquired whether it was the intention of the House to saddle the President with the expense incurred, in consequence of their resolution of the 15th April. He understood that near ten thousand dollars had been laid out in purchasing furniture, and putting the house in order for his reception; it might be disagreeable to the President to take it. Perhaps he would be a considerable loser by such a bargain, and many of the things might be of a nature he disliked. He thought the House had been inconsistent with itself in ordering these things for the President, and then refusing to let them be applied to his use.

Mr. SHERMAN thought the House need not be embarrassed on this point. The expense is to be paid by the United States, and the furniture will be their property, to do what they please with. Neither did he think the House inconsistent, because it was the object of the Legislature, by their former vote, to provide only for the temporary accommodation of the President.

Mr. BENSON said, the business had been properly conducted. It was not in contemplation to throw the furniture or any other expense upon the President. He presumed the property belonged to the United States, but they would sell to the President such part as he chose to purchase. As to the House, the President was not confined to it; he might give it up when he pleased, and take another if he thought proper.

The question on striking out twenty thousand and inserting thirty thousand was divided, and the first part was agreed to, but the latter rejected.

It was now moved to strike out the words secretary and clerks.

Mr. MADISON thought the Executive Magistrate ought not to have the power of creating officers; yet if he appointed his secretary and clerks, and they were recognised, either with respect to salary or official acts, they became officers of the Government.

Mr. BENSON did not think it necessary to recognise any such officers; they were to be esteemed the mere instruments of the President, and not as sharing in the administration.

The motion was put, and carried in the affirmative, and then the House adjourned.

TUESDAY, July 14.

NEW JERSEY ELECTIONS.

Mr. AMES, from the Committee of Elections, to whom was referred the petition of a number of the citizens of New Jersey, complaining of the ineligibility of the election of the members holding seats in this House, as elected within that State, made a report, which was read, and ordered to lie on the table.

Ordered. That a committee be appointed to prepare and bring in a bill or bills to provide

JULY 15, 1789.]

New Jersey Elections.

[H. of R.]

for the Government of the Western Territory.

And a committee was appointed, consisting of Mr. FITZSIMONS, Mr. SEDGWICK, and Mr. BROWN.

Ordered, That a committee be appointed to prepare and bring in a bill or bills to provide for the settlement of accounts between the United States and individual States, agreeably to the ordinance of the late Congress.

And a committee was appointed of Mr. BALDWIN, Mr. STERGIS, and Mr. SMITH, (of South Carolina.)

An engrossed bill to regulate the collection of duties imposed on goods, wares, and merchandises imported into the United States, was read the third time, and the blanks therein filled up.

Resolved, That the said bill do pass, and that the title be "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States."

Ordered, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

And then the House adjourned.

WEDNESDAY, July 15.

NEW JERSEY ELECTIONS.

The House proceeded to consider the report made yesterday by the Committee of Elections on the petition of a number of the citizens of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State.

This report stated that certain allegations in the petition required the testimony of some witnesses, which the committee did not think themselves authorized to collect: they, therefore, requested the direction of the House in the manner of proceeding with respect to such testimony; also with respect to the request of the petitioners in favor of the sitting members, that they might be heard by counsel.

Mr. BORDWICK observed, that he could answer for himself, and he believed for the other Jersey members, that the suffrages of their constituents had not been solicited by them, nor had they been anywise concerned in any of the transactions at the election complained of. In consequence of the commissions received from the Governor and Council of New Jersey, who had declared the election legal, he and his colleagues appeared in the House; the Governor's conduct had been censured on the occasion; however, their proceedings have been published and laid before the House, and the petitioners have agreed that they shall be admitted as evidences in this case. He thought it unnecessary that the petitioners in favor of the election should be heard by counsel. He said the sentiments of the other sitting members coincided with his. They gave up every advantage that might arise from this, rather than occasion the great delay that must attend it.

The committee, said he, have applied to the House for a power to send a commission into New Jersey, to take testimony, in contradiction of what has been certified by the Executive Magistrate; now I submit to the House, whether this certificate, admitted to be true on all hands, is not the best evidence the nature of this case requires, and whether it will be necessary to send through that State a commission to examine every person, who chooses to offer evidence on the subject. I think such a measure will produce great evils, as a precedent, and many others in its operation; in the first place, such evidence will be taken *ex parte*, because it will be next to impossible for the opposite party to attend, in order to cross-examine the witnesses. It will put the petitioners to great expense and inconvenience, and, after all, the certainty will be as great as it is at this moment.

But the precedent, I conceive, will be extremely dangerous. If a contested election should take place in New Hampshire or Georgia, we shall be obliged to send a commission into those States, for the purpose of obtaining testimony, which, after all, can never be so satisfactory as *viva voce* evidence; and more time may be spent in executing this commission, where the judges have to travel from district to district, through a State of 5 or 600 miles extent, and examine every judge, inspector, and elector, than the representation is chosen to sit.

We thought it proper to lay these reasons before the House, and there leave the matter to their decision, to which we shall submit with all cheerfulness. We came here with an ardent desire to carry the constitution into effect: actuated by this motive, we mention to the House the great attention which ought to be paid to secure the freedom of election, upon which alone the whole fabric depends. It is not that we dread the fullest investigation, that we submit these sentiments; it is our anxiety to have the question of our election speedily determined, and not delayed by what we conceive a useless measure.

The question before the House appears to be, whether it is necessary to obtain a few additional witnesses, at great uncertainty and expense; or whether the evidence already before them, and what may further be advanced by the petitioners, *viva voce*, is not sufficient to decide upon.

Mr. AMES brought forward several resolutions, which he thought would bring the question alluded to by the honorable gentleman from Jersey (Mr. BORDWICK) fairly before them; the first prescribed the mode of taking depositions by commission.

This being read, together with the papers containing the charges, &c. and the certificate of the Governor;

Mr. BENSON observed that the House had referred this business to the Committee of Elections, to report facts arising from the proofs; that it appeared to the committee, that certain facts respecting the manner in which the elec-

H. OF R.]

New Jersey Elections.

[JULY 15, 1789.]

tion was conducted, might be material, but the testimony could not be procured by them, without the aid of the House; they had therefore made a report of this nature. He thought the House had better consider whether the facts alluded to by the committee were material or not; if they were not material, the House would not adopt the resolutions proposed by Mr. AMES; but if they were, then those resolutions will come properly before them.

Mr. VINING opposed Mr. AMES's proposition for empowering the judges of New Jersey to take this evidence. He was in favor of receiving the testimony *viva voce* before the House: the vicinity of that State would render this mode not inconvenient; and if it should be found necessary to form commissions for this purpose in distant States, provision might be made accordingly.

Mr. LAWRENCE remarked, that it had been questioned how far the House had a right to interfere in the election of particular States, but that Congress has received a discretionary power from the constitution to regulate the time, manner, and place, of holding elections; and it is stated in another clause, that the election and qualification of its own members shall be judged by the House; by this means, all transactions relative to such elections are included; consequently they may determine in what manner the investigation of such a subject shall be prosecuted. If any doubts arise on that point, the sense of the House must be taken thereon.

Mr. BENSON proposed a day to be assigned on which the parties should have a hearing before the House on the question, either by themselves or by counsel, whether, by the constitution, an inquiry can take place before the House relative to the facts alleged.

Mr. WHITE objected to counsel being introduced in the present instance; he judged the House as competent to decide this business as they had already been to determine many other constitutional questions.

Mr. JACKSON was of opinion, that no such question could be admitted with propriety: One election has been determined without the aid of counsel or *ex parte* evidence, and he saw no reason in the present case why a different mode should be substituted. The authority of this House is not to be called in question by an individual; there cannot be a doubt of its jurisdiction in the case. One gentleman has been tried by the House upon the evidence that was brought before us: it will not be pretended that the delicacy and feelings of that gentleman could be less than those of the gentlemen concerned in the present question; it would be inconsistent and unjust to subject one member to a particular mode of trial, and then deliberate whether that same mode shall be adopted with respect to another.

Mr. SENEY said, he did not doubt the jurisdiction of the House, but as some objections had been made by the petitioners, and they had prayed to have the point settled, he thought

they ought to be indulged; that every citizen had a right to be heard in his own defence, where he considered his right concerned.

It was then moved that the report of the committee should lie on the table, in order to take up the proposition of Mr. BENSON.

Mr. AMES objected to this proposition, as the greatest inconveniences might arise from it; it would discourage a number of people from applying for justice, especially those who lived remote from the seat of Government, provided they were obliged to attend in person, and give their testimony. The eligibility of taking depositions in many instances, particularly the present, in preference to the delays, uncertainty, and enormous expenses that would inevitably tend the mode proposed by the motion, was clear to his mind.

After some desultory conversation, Mr. BENSON withdrew his proposition.

Mr. LEE proposed, that the report should be recommitted, and the committee authorized to send for evidence, papers, and records, and report a special state of facts. He said that it was the custom of the British House of Commons, upon similar occasions, to leave the whole business to a committee; and observed, that the example of so old and so experienced a legislative body could be followed with safety and propriety.

This motion was withdrawn, after some desultory conversation had taken place upon it.

The question on the report of the committee then recurred, on the question whether the judges of the Supreme Court in New Jersey should be authorized to take depositions on the subject of facts alleged by the parties; when,

Mr. SENEY moved that Wednesday next be assigned for the parties to appear and be heard by their counsel before the House, of which notice should be given; and that the committee be discharged.

Mr. LIVERMORE observed, that the House was much embarrassed; but, sir, I saw it from the first appointment of the committee. I object to counsel being introduced into this House to discuss a previous question. This House is the judge of its own elections. We have appointed a committee to examine, but have not vested them with power to determine. They have not so much as a power to hear. If we have pursued a wrong step, why should we proceed any further? Let the committee be discharged, and a day appointed to hear the parties. It is my determination to hear, before I judge. The committee should be discharged, if they cannot proceed further without our aid. The subject now before the House is material, and of the greatest importance; and although we have been heretofore wrong, we may now set ourselves right.

I have no objection that counsel should be heard upon the merits of the principal question. Though after an investigation of facts, we have determined in one instance, and why we cannot do the same now I cannot conceive.

Each House is to judge of the elections, re-

JULY 16, 1789.]

Compensation of the President, &c.

[H. OF R.]

turns, and qualifications of its own members. What means the word judge? Why it corresponds with the ancient maxim, to hear and determine. Now how can the House determine without hearing? If the House is to judge, we must bring all the evidence before us, although the committee may have heard it twenty times over.

Mr. MADISON thought, if the jurisdiction of the House was called in question, it would be proper to hear counsel on that point, because it must be indelicate to determine a question respecting their own jurisdiction, without hearing what could be advanced against it.

Mr. PAGE was in favor of recommitting the report, and letting the committee proceed upon the duty to which they were originally appointed. He said, if the jurisdiction of the House was questioned, the parties had an indubitable right to be heard by counsel, and he hoped no gentleman would refuse the people of the United States a privilege of this important nature, which had been always enjoyed by the subjects of Great Britain.

Mr. STONE thought the authority of the House to determine any question respecting the election of any of its members, was so clearly expressed and understood, from the fifth section of the first article of the constitution, that no doubt could be entertained by the petitioners, or any one else; consequently, it would be a waste of time to spend any in hearing counsel on that point. He had no objection to admitting a limited number on the merits of the main question, if required.

Mr. BOUDINOT informed the House that the petitioners meant to withdraw their request to be heard by counsel.

Whereupon Mr. SENEY withdrew his motion for making it the order of the day.

The question again recurred for inserting a commission to go into Jersey to take evidence; but it growing late, the House adjourned.

THURSDAY, July 16.

A petition of John Christopher Stoebel, of the city of Philadelphia, was presented to the House and read, praying that an exclusive privilege may be granted him for a term of years, to construct and navigate boats with wheels, upon the principles of a model which he has invented, to facilitate the passage of boats up and down streams and rapids, without the use of oars.

Ordered, That the said petition do lie on the table.

Mr. BALDWIN, from the committee appointed, presented, according to order, a bill for settling the accounts between the United States and individual States, which was received and read the first time.

Mr. FITZSIMONS, from the committee appointed, presented, according to order, a bill to provide for the government of the Territory northwest of the river Ohio, which was received and read the first time.

LIGHT HOUSES, &c.

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the bill for the establishment and support of light-houses, beacons, and buoys, and for authorizing the several States to provide and regulate pilots.

Mr. BOUDINOT took the chair of the committee; and after some time spent therein, the committee rose and reported progress.

COMPENSATION OF THE PRESIDENT, &c.

The House resumed the consideration of the report of the committee on the compensation to the President, Vice President, and members of Congress.

The blank occasioned by striking out on Monday last, was now proposed to be filled.

Mr. LIVERMORE moved to fill it with 18,000 dollars.

Mr. BURKE said, there were some members of the committee in favor of 15,000 dollars; others indeed were for a much larger sum—he believed they went so far as 70,000 dollars; that 20,000 dollars was an accommodation, and as such he had agreed to it; but he was of opinion that 15,000 dollars was sufficient; that 20,000 had been once agreed to, but the expenses were added at a subsequent meeting of the committee; now, as the House had concurred in striking out 20,000 dollars, and a proposition was come forward more correspondent to his judgment, he should give it support.

Mr. FITZSIMONS presumed it was not a question before the House what the report of the committee had been, nor were the sentiments any gentleman had there delivered to operate against the sense expressed by the committee in their report; if any thing done in committee was to influence the decision of the House, it must be the report, which spoke the sense of the majority. He further presumed, that when the 20,000 dollars were struck out, after all the expense had been erased, it was in the contemplation of the honorable mover to increase the sum so as to include both articles. It was with this view he voted in favor of striking out the 20,000 dollars.

Mr. TUCKER said it might happen, that the expenses a President would incur at the first entering on the office would be so great as to injure his private fortune, and distress his family. A quarter's salary might be insufficient to defray the expense; yet if the President continued but three months in office, this sum would be all he was entitled to. He thought it just and requisite to provide against accidents of this kind, if it could be done consistently with the constitution. With this object in view, he would propose that the President's compensation should be 26,000 dollars for the first year, and 16,000 dollars for every other year; that 10,000 dollars should be paid him in advance, on his coming to the chair, and the remainder in quarterly payments. Its amount, he said, would be nearly what was proposed by the gen-

H. OF R.]

Compensation of the President, &c.

[JULY 16, 1789.]

tleman from New Hampshire, (Mr. LIVERMORE;) and if the House was disposed to fix on that sum, as a proper compensation, they might, without any material change, admit his proposition; but if they meant to grant either a greater or less sum, he hoped they would accommodate it to his principle.

Mr. STONE said, that a sum of 25,000 dollars would be as small a sum as would answer the purpose; and provided that amount should be agreed to, the expense of the Executive would be less to the people than that of any Government in the world. If it is considered that the unavoidable expense will be great, and that the assistance of two or more secretaries will be necessary for the President to discharge his high and important trust, and that it cannot be expected that persons in such a station should be in straitened or dependent circumstances, this sum will not be found to exceed the absolute expense, with a moderate compensation for the services of the President. It is also a maxim of sound policy, that executive officers should be independent.

Mr. WHITE.—Sir, I do not say that 25,000 dollars will or will not be sufficient; but in order to determine the necessary sum, I should wish to know the style in which the President is expected to live. If a style of magnificence and splendor is to be adopted, this sum is too small; and if economy is pursued, it may be too much. Until this is known, it will be extremely difficult to decide upon a proper sum; and when I give my vote, I wish to do it on such information as will satisfy my mind with respect to its propriety, and show my constituents the reasonableness of the measure. Will he live in a more expensive style than the former Presidents of Congress, or will he live nearly in the same? If so, what was that expense, or what will be the probable increase? How was that money applied, and what will now be necessary? If these questions can be answered, gentlemen may decide with more precision than they can while the subject is left aloft.

Mr. BALDWIN said, it was impossible to get the information the gentleman required; the committee had made all the examination in their power with respect to the actual expense of supporting the office. They found former Presidents of Congress, whose office, by the by, was less important, and whose assistants were less numerous, expended 7,000, 8,000, and so on to 13,000 dollars annually. From this, some gentlemen were led to believe 17,000 dollars might be sufficient in this instance. But we were, said he, left without any thing satisfactory on this subject; and when the question was pressed on the committee, they varied from 15,000 to 25,000 dollars; we were therefore obliged to average the sum.

We were satisfied that it must be left to experiment to determine what the allowance ought to be; and we were certain that the gentleman who had to make the first experiment would do it in such a manner as to give satisfaction to

every body. He knows the way to blend dignity and economy; and I would rather, on this account, make the allowance too much than too little. I would, therefore, prefer making the experiment at 25,000 dollars; a sum that, in the President's hands, will give umbrage to no one.

Mr. BOURNOR made some further observations respecting the examination made by the committee, from which it appeared that the expenses of the President of the United States would exceed the expenses of the late President of Congress, in a variety of cases. Two secretaries would be wanting; they must be men of abilities and information; but the committee conceived extra provision would be made for them by the House. If the whole was to be comprehended in one grant to the President, he would rather increase the sum reported by the committee than diminish it. Originally he was in favor of allowing 16,000; but then he thought the expense of secretaries, carriages, furniture, &c. was to be an additional allowance. Since the House had determined otherwise, he favored an addition to the 20,000 dollars.

Mr. JACKSON was disposed to move 30,000 dollars; but he was willing to accommodate, and agree to 25,000 dollars.

Mr. VIXING observed, that the committee had no documents whereby they could form a judgment; they had no light to guide them. They could not foresee what ambassadors and foreign ministers might be sent to this country, nor the expenses the President must necessarily incur upon that account, to support the honor and dignity of the United States. He further remarked, that there are cases in which generosity is the best economy, and no loss is ever sustained by a decent support of the Magistrate. A certain appearance of parade and external dignity is necessary to be supported. Did I, said he, represent a larger State, I would speak with more confidence on the subject. We are haunted by the ghost of poverty; we are stunned with the clamor of complaint throughout the States. But under the auspices of an energetic Government, our funds will be established and augmented, and, I make no doubt, will be found sufficient to answer all the purposes of the Union. But our calculations ought not to be confined to the present moment alone. If it should be contended by any gentleman, that we have it not in our power to support the Government in a proper style, then there is an end of the business. We should remember that the present time is the season for organizing the Government. A patient and mature deliberation is requisite to investigate it, and by that means the amount of the civil list will be increased; in future the sessions will be short, and the load of expense greatly diminished. He was opposed to any reduction of the sum, as he had always thought it too small, and would rather propose to fill the blank with 30,000 dollars.

Mr. PAGE mentioned that 30,000 dollars had been proposed; though he thought the sum ade-

JULY 16, 1789.]

Compensation of the President, &c.

[H. OF R.]

quate, it was not sufficient to support pomp and parade. Those, he said, were entirely out of the question. He had made a calculation upon the probable necessary expenses, and found, that exclusive of that dignity and pageantry talked of, this sum would suffice. If he had contemplated the splendor and pageantry alluded to, he should not have thought of 30,000 dollars, nor 40,000 dollars, for he believed 100,000 dollars insufficient. But if the committee, upon investigation, were convinced that 20,000 dollars would be a compensation for his services, exclusive of an allowance for his expenses, when the whole was taken together, it must at least amount to 30,000 dollars; for this reason, he moved to fill the blank with that sum.

The question on 30,000 dollars was put, and rejected.

Mr. PAGE then moved 25,000 dollars, which was carried; affirmative 30, negative 17.

The House then proceeded to the second part of the report, viz: "That there be paid in like quarterly payments to the Vice President of the United States, 5,000 dollars per annum."

Mr. WHITE.—I do not like the principle on which this provision is made for the Vice President; there is nothing, I believe, in the constitution which gives him a right to an annual sum; it fixes no duty upon him as Vice President, requiring a constant attendance. He may be called upon to act as President, and then I would give him the salary of the President; at other times, he is to preside as President of the Senate, then I would pay him for his services in that character. On this principle, I shall move to strike out the clause; if that is agreed to, I propose to offer one, allowing him the pay of President, when he acts as President; and a daily pay during the time he acts as President of the Senate.

Mr. PAGE would second the motion for striking out five thousand dollars, but with a different view from what had been intended by his worthy colleague. He wished it struck out, in order to introduce a larger sum. His idea was, that a proper proportion was not observed between the salary of the First and Second Magistrates. As to the utility of the office, he had nothing to say. He had no hand in forming the constitution; if he had, perhaps he should never have thought of such an officer; but as we have got him, we must maintain him; and those gentlemen who talk of respectability being attached to high offices, must admit, in a comparative view, that he is not supported with dignity, provided a situation derives its dignity from the money given him by way of salary; for his part, he thought money, abstractedly considered, could not bestow dignity. Real dignity of character proceeds from a much nobler source; but he apprehended the people of the United States, whose representative the Vice President was, would be displeased to see so great a distinction made between the President and him.

Mr. SENEWICK said, the arguments of the honorable gentleman from Virginia, (Mr. WHITE.)

did not strike him with any force, nor did he see the impropriety spoken of. One reason why the pay of the members of the Senate and House is per diem is, because they contemplate their being together but a very inconsiderable part of their time; but I suppose, said he, that every gentleman who has considered the subject, has determined in his own mind that the Vice President ought to remain constantly at the seat of Government; he must always be ready to take the reins of Government when they shall fall out of the hands of the President; hence it will be necessary that he should, for this cause, if not for any other, preclude himself from every object of employment, and devote his whole time to prepare himself for the great and important charge for which he is a candidate. Under these circumstances, it is necessary that he should be provided with a constant salary, to support that rank which we contemplate for him to bear; I therefore conceive it must be such a perpetual salary as the President is entitled to receive. If the principles of the motion are inadmissible, it cannot be supported by argument, because very little information can be obtained on which to ground our reasoning.

Mr. SENEY said, that, according to the constitution, a compensation is to be made for services performed. The Vice President may absent himself the whole time. He proposed giving him a handsome allowance while employed, but thought he ought to be paid per diem.

Mr. SHERMAN adverted to the circumstance of salaries being allowed to Lieutenant Governors in the several States where such officers are appointed; so that, according to this mode, the grant made to the Vice President would correspond with the practice of the States individually. It appeared also, he said, to be necessary, inasmuch as this officer would be taken from all other business.

Mr. WHITE.—If I thought, sir, the attendance of the Vice President as necessary as that of the President, I would not hesitate to allow him an annual salary; but I do not conceive it to be so necessary; it is not made so by the constitution. If he had been appointed Vice President as a perpetual counsel for the President, it would have altered the case; he would then have had services to render, for which we ought to compensate him. The honorable gentleman from Massachusetts (Mr. SHERMAN) has intimated that he will be precluded from following any other business; there is nothing in the constitution which precludes him from following what profession he thinks proper. I am willing to pay him a full and liberal allowance for all the services he renders; but I do not think we are authorized to institute sinecures for any man.

It ought to be considered that the Vice President has personal advantages from the appointment to that office; it holds him up as the successor of the President; the voice of the people is shown to be considerably in his favor;

H. OF R.]

Compensation of the President, &c.

[JULY 16, 1789.]

and if he be a deserving person, there will be but little doubt of his succeeding to the presidential chair; not that I would make this an argument to diminish his compensation. I would pay him amply for all the services he renders, at least as amply as the Government and circumstances of the people will admit. When performing the duties of President, he should receive the salary as such.

The constitution has stipulated, that the President shall be compensated for his services, that we shall ascertain it by law; but it has not said one syllable with respect to the pay of the Vice President; hence I consider it would be improper to pay him on any other principle than in proportion to his services. If these require five thousand dollars a year, it may be deemed to amount to that sum, at so much per diem.

As to the observations of the gentleman from Connecticut, (Mr. SHERMAN,) that Lieutenant Governors receive salaries in the several States, and therefore it will be proper to grant one to the Vice President, in order to comport with the practice of the States individually, I shall only remark, that in some States they have no such officer; in others, where they have such an officer, they give him no pay at all; in some, they are paid according to their attendance on business, in the manner that I propose to pay the Vice President. But admitting that every State had an officer of this kind, and that they paid him a salary like that proposed in the report, it would be no argument why the General Government should pursue a practice inconsistent with that economy and sense of propriety which it ought to be the study of the Representatives of the people of the United States to preserve to their constituents.

Mr. MADISON.—I do not concur, Mr. Speaker, in sentiment, with my colleague on this subject. I conceive, sir, if the constitution is silent on this point, that it is left to the Legislature to decide according to its nature and its merits. The nature of the office will require that the Vice President shall always be in readiness to render that service which contingencies may require; but I do not apprehend it to be in our power to derive much advantage from any guides furnished by the examples of the several States; because we shall find them differently provided for by the different Governments. If we consider that the Vice President may be taken from the extremity of the continent, and be from the nature of his office obliged to reside at or within the convenient reach of the seat of Government, to take upon him the exercise of the President's functions, in case of any accident that may deprive the Union of the services of their first officer, we must see, I think, it will often happen that he will be obliged to be constantly at the seat of Government. No officer under a State Government can be so far removed as to make it inconvenient to be called upon when his services are required; so that, if he serve with-

out a salary, it may be he can reside at home, and pursue his domestic business; therefore the application in that case does not appear to me to be conclusive.

My colleague says that he will derive advantages from being in the line of appointment to the presidential chair. If he is to be considered as the apparent successor of the President, to qualify himself the better for that office, he must withdraw from his other avocations, and direct his attention to the obtaining a perfect knowledge of his intended business.

The idea that a man ought to be paid only in proportion to his services, holds good in some cases, but not in others. It holds good in legislative business, but not in the executive or judicial departments. A judge will be sometimes unemployed, as in the case of the Vice President; yet it is found necessary to claim the whole of his time and attention to the duties for which he is appointed. If the principle of proportioning the allowance to the quantum of services performed obtains, it will be found that the Judiciary will be as dependent on the legislative authority, as if the Legislature was to declare what shall be their salary for the succeeding year; because, by abridging their services at every session, we could reduce them to such a degree, as to require a very trifling compensation indeed. Neither do I, Mr. Speaker, consider this as a sinecure; but that will appear from the reasons already given. The office of a judge is liable, in some degree, to the same objection; but these kinds of objections are levelled against the institutions themselves. We are to consider his appointment as a part of the constitution; and if we mean to carry the constitution into full effect, we ought to make provision for his support, adequate to the merits and nature of the office.

Mr. AXES said that the Vice President's acceptance of his appointment was a renunciation of every other avocation. When a man is taken from the mass of the people for a particular office, he is entitled to a compensation from the public; during the time in which he is not particularly employed, he is supposed to be engaged in political researches for the benefit of his country.

Every man is eligible, by the constitution, to be chosen to this office; but if a competent support is not allowed, the choice will be confined to opulent characters. This is an aristocratic idea, and contravenes the spirit of the constitution.

Mr. SENEY.—This, sir, is a subject of a delicate nature, and the discussion of it rather disagreeable; but I think it my duty to declare my sentiments freely upon it. No argument has been adduced to convince me that the Vice President ought to receive an allowance any more than the other members of the Legislature. He cannot be compelled to perform any duty. This is an important subject, and ought to be maturely considered, as a great deal depends on the decision which will now take place.

JULY 16, 1789.]

Compensation of the President, &c.

[H. OF R.]

Mr. BURKE observed that the situation of our finances was so much embarrassed, as to disempower us from giving such ample salaries as we might, under different circumstances, think necessary; that it was but reasonable the Vice President should receive a compensation adequate to the second officer in the Government. He will be subject to extra expenses by living at the seat of Government, and will be obliged to maintain his dignity. Mr. B. further suggested that the sum might not be fully sufficient, but in our present situation, it was as much as we could afford.

Mr. AMES, in his reply to Mr. SENEY's observations, pointed out the difference of the situation of the Vice President and the members of the Legislature.

Mr. SEDGWICK made some additional remarks of a similar nature, and further observed, it would be necessary that the members of the House should return and associate with their constituents, in order to learn their sentiments and their feelings, and witness their situation and wants, that they may consequently resume their former occupations: but with respect to the Vice President, his acceptance must be considered as an abandonment of every other pursuit; he must reside at the seat of Government, and will necessarily incur extra expenses in consequence of his office.

Mr. STONE.—I am for giving such salaries to the officers of this Government, as will render them easy in their situation. But we are confined by the constitution; salaries are to be given for services performed; they are considered in no other light. The Vice President cannot be viewed in any other light than that of the President of the Senate. I am for his being paid per diem, but would allow him a generous support. I do not think five thousand dollars are sufficient; I would allow him a larger sum, which allowance, per diem, would amount to what would be fully adequate.

Mr. SMITH, of South Carolina, said, that by the constitution, the Vice President could not be considered as a Senator, and therefore could not, with any propriety, be paid as such. Considering him as an officer in the Government, next in dignity to the President, and particularly designated by the constitution, he must support a correspondent dignity in his style of living, and consequently ought to have a competent allowance for that purpose. He did not think five thousand dollars would be considered too much, and would vote for that sum. The idea of a daily allowance must be given up, as inapplicable to the situation assigned him by the constitution. He is there recognised as Vice President, and as such ought to be provided for. A daily pay of twenty-five or thirty dollars would appear a large compensation; yet if Congress sat but one hundred days, which, in all probability, would be the length of their future sessions, it would be insufficient for his support. But suppose it one hundred and fifty days; this, at thirty dollars per day, would

come so near the proposed salary, that the saving would be an inconsiderable trifle; but if the session was longer, it might amount to more than is contemplated by any gentleman.

Mr. PAGE was clearly for making the allowance by annual salary, because the office was permanent; a daily allowance could not be relied upon, because if the Senate sat but a few days, it would be incompetent, even at one hundred dollars per day; whereas, if the session was of long continuance, that sum would be more than the services could require, if they are to hold a comparison with those of the President. If the House agreed to strike out the five thousand dollars, he would propose eight thousand, which was not one-third of what was given the President.

Mr. BOURNOUT.—The question seems to turn merely on this point, whether the Vice President shall receive a per diem allowance, or an annual salary? The constitution ought to serve as the ground on which to determine it; therefore we are to consider the point of view in which this office is placed by that instrument. The second article calls him into view with the President; he is to be elected in the same manner as the President, in order to obtain the second best character in the Union to fill the place of the first, in case it should be vacated by any unforeseen accident. The constitution considers him a respectable officer; he is to supersede the President, when it shall happen that the First Magistrate dies, or is removed on impeachment and conviction. These are the great objects of his appointment. His duty as President of the Senate is only collateral; consequently he ought to be respected, and provided for according to the dignity and importance of his principal character. If still inferior duties were attached to him, would it be an argument for reducing the compensation to an equality with what ought to be granted, if he performed such inferior duties only? I apprehend it is a principle of this nature which urges gentlemen on to press the amendment. I cannot see any reason for differing with the constitution on a point in which I think it ought to guide our decision.

I think there is an affinity between the duration of the office and the compensation. The constitution establishes the office for four years; the compensation ought to be made commensurate with that idea.

The question on Mr. WHITE's motion was taken and lost, as was Mr. PAGE's motion for striking out 5,000 and inserting 8,000 dollars.

The proposition being then agreed to,

The House proceeded to consider the following: That the daily pay of the members of the Senate, and House of Representatives, for their attendance at the time appointed for the meeting of their respective Houses, and for the time they shall be going to, and returning therefrom, allowing the travel of twenty miles for each day, be six dollars, and of the Speaker of the House of Representatives twelve dollars.

Mr. SEDGWICK moved to amend this proposition, so as to give to the members of the Senate six dollars per day, and five to the members of the House of Representatives. His reasons for introducing this distinction was, that the convention had made it in the constitution. The Senators are required to be of an advanced age, and are elected for six years. Now this term taken out of the life of a man, passed the middle stage, may be fairly deemed equal to a whole life; for it was to be expected, that few, if any, of the Senators could return to their former occupations, when the period for retirement arrived; indeed, after six years spent in other pursuits, it may be questioned whether a man would be qualified to return with any prospect of success.

He did not say six dollars was more than a compensation for their services and expenses; but as economy ought to be particularly studied by the Legislature, he had moved to reduce it. He hoped gentlemen would pay some deference to the public opinion, on the present occasion; this he thought to be in favor of small salaries. Not but a different sentiment might prevail in some of the States; perhaps different circumstances might warrant the difference of opinion. It was probable that five dollars, laid out in that part of the Union from which he came, would be more advantageous to the person, than a like sum laid out at the other extremity of the continent; but he believed, nevertheless, that something would be left to those gentlemen, out of the five dollars per day, after their expenses were paid; but even if a little self-denial was the consequence of this reduction, it would do but little harm; whereas the precedent might have a salutary influence upon the future administration of the Government.

Mr. JACKSON.—I am opposed to this discrimination, because all have alike abandoned their particular pursuits in life, and all have equally engaged in the service of their common country. On what principle can this distinction then be contended for? Is it expected that a Senator shall eat more, or drink more costly liquors, than a member of the House of Representatives? I presume it is not; their expenses must be nearly equal. I can see but one reason that can be assigned for this difference, which is, that the Senate may sit longer than the House; but considering they are to receive pay accordingly, this reason is of no weight. The duties of both Houses are equal, and the pay ought to be alike.

I will submit to the gentleman who brought this motion forward, whether it is not much worse to the personal interest of men in business to be taken off in the prime of life, than after the successful pursuit of some profession at an advanced age, when the natural and proper time of retirement arrives; and if so, his argument falls to the ground. But if the reverse is true, it will not support his motion, because, if we look around, our senses will inform us that this House contains as venerable and aged members as any within the walls of

the Senate; thus again we are upon a footing. Now, unless gentlemen mean that we should depress ourselves, and thereby set the Senate above us, I cannot conceive what foundation there will be for a discrimination.

Mr. LEE.—I am in favor of the motion for discriminating between the Senate and this House, because the constitution has done it in a variety of modes. The qualifications are superior; a Senator must be a man advanced in life, and have been nine years a citizen of the United States; while a younger man, who has been but seven years a citizen, may obtain a seat in this House.

The constitution has made a difference in the mode of election. The Senators are selected with peculiar care; they are the purified choice of the people, and the best men are likely to be preferred by such a choice; those who have shown the fullest proofs of their attachment to the public interest, and evinced to their countrymen their superior abilities. In order to bring forth such characters to partake of our public councils, I think every motive of honor and of interest ought to be called into action. If men are not brought forth who will maintain their own dignity, and promote the public interest by a firm and independent conduct, regardless of every risk, regardless of the voice of calumny or popular clamor, our Government will soon lose its importance and its energy. I contemplate, Mr. Speaker, the Senate as a barrier between the Executive and this branch of the Legislature, shielding the people from any apprehension of being attacked by an aspiring Magistracy on the one hand, and on the other from being desolated by the anarchy often generated by a time-servingness to veering popularity. We shall gain these desirable objects at a trifling price, if we make a distinction of two or three dollars per day—a trifling allowance indeed to our most worthy sages. But, said the gentleman last up, there are as young men in the Senate as in this House; although there be, the time will come when none but the most venerable and respectable of our citizens, men whose hoary heads are silvered over with the honors of an experienced old age, men illustrious by their virtues and capacity, will have the public confidence ensured to them by the purity and notoriety of their principles.

Now is the time to deliberate and view every future circumstance which may arise from our decision; the importance of this principle hereafter, is infinitely above every advantage which the present members may derive from it. By it alone you may secure dignity and permanency to the Government, and happiness under its administration.

It is with difficulty, Mr. Speaker, that you can draw forth men of age and much experience to participate in the political concerns of their country. Retirement and reflection are incident to that period of life; they are sought for, and, when obtained, they are highly prized. The wise and virtuous sage, who from the mo-

JULY 16, 1789.]

Compensation of the President, &c.

[H. OF R.]

nitions of nature has discovered that his remaining years will be but few, must be incited by every motive that can operate on the human heart to continue those labors which he seeks to bury the remembrance of in the depths of solitude. Honor may stimulate the ingenuous mind; but interest is a great reason of action, and may be usefully employed to influence old age.

What I have now urged is in favor of the constitutional distinction; I approve of the amendment, but I wish the sum had been left out, that the provision might be determined according to the sense of the House, and not affect the principal question of discrimination. I am satisfied, sir, that there is no heart within these walls but beats with patriotic ardor, and has determined to pursue the noblest object, the public good. Nothing but the anxiety I feel for this, as connected with the present question, could have induced me to trouble the House with a repetition of what was dilated upon, on a former occasion. Let it then be considered, that on our decision depends the dignity of the Legislature, and the perpetuity of that Government, the glory and the hopes of the people of America, which, if now disappointed, must be succeeded by confusion and gloomy despair.

Mr. WHITE.—I object, sir, to a discrimination. I cannot perceive that difference in the constitution alluded to by the gentlemen. Among the Senators and the people in some of the ancient commonwealths, an artificial and political distinction was established, which was the case at Rome, in particular. There the Senators were considered as possessing some degree of divinity, and the rest of the people were not admitted to associate with them. Can it be supposed that the name of Senators will render those members superior to their fellow-citizens? I cannot see any difference in the general estimation between a Senator and a Representative, however great their sentiments may vary in their respective States; and cannot conceive why any discrimination should be made in their allowances.

The independence of the members of this House may be injured by such a distinction; and the Senate, at some future day, may have it in their power to carry points, and be enabled to prolong the session, when it may be of great inconvenience to the House.

Mr. MADISON was of opinion that a discrimination was necessary; he observed, that it had been evidently contemplated by the constitution, to distinguish in favor of the Senate, that men of abilities and firm principles, whom the love and custom of a retired life might render averse to the fatigues of a public one, may be induced to devote the experience of years, and the acquisitions of study, to the service of their country. And unless something of this kind is adopted, it may be difficult to obtain proper characters to fill the Senate, as men of enterprise and genius will naturally prefer a seat in the House, considering it to be a more conspicuous situation.

Mr. MOORE did not see the propriety of the discrimination proposed; the business of each House is equal, or if there is a difference in their legislative concerns, it is in favor of the House. He had no idea of giving the public money for such an idle purpose as the support of a fanciful dignity and superiority. His idea of the business was, each member ought to be compensated for his services, and nothing further.

Mr. VINTAGE.—The arguments brought forward by my honorable friend from Virginia, (Mr. LEE,) have not proved satisfactory to my mind, that his favorite opinion with respect to discrimination is right. He has told us that the sages of America will be selected, and placed in this distinguished situation. True, sir, I expect venerable and respectable characters will find their way into every branch of the Government; but when I consider the mode in which the Senate is elected, I apprehend we may have there men whose wealth has created them the influence necessary to get in. If any thing is to be expected by this refined choice, it is that men of rank and opulence will draw the regard of the small and select circle of a State Legislature; while the Representatives in this House, being the choice of their fellow-citizens, among whom rank and dignity is rather unpopular, will consist of men in middling circumstances. Now if any thing is to be drawn from arguments like these, it is in favor of this House. But the whole of this is a subject on which we are better able to decide from our feelings, than from our discussions.

I am against the motion for another reason, sir; it goes to reduce the compensation, which I think is already set too low, to furnish good security for the happy administration of the Government. In considering this subject, there are two important objects necessary to engage the attention of the Legislature. First, that the compensation be not made an object for indigence to pursue; and second, that it be not so low as to throw the business of legislation into the hands of rich and aspiring nabobs, but such as to compensate a man in the middle grade of life. These are generally men of business, who are fittest to conduct the concerns of their fellow-citizens. Now, in compensating this class of men, (for I would have the compensation proportioned to this class,) I do not take into consideration the sacrifices they make, by dedicating their time and abilities to the service of their country; but I confine myself merely to a compensation for their time and services. If the compensation is made an object for indigence, we shall have the sessions protracted to an extreme length, and the expense will be increased; if we make the reward barely commensurate with the services, you will have men of abilities, who will despatch the public business, and return to their private pursuits. If the business is done without pay, it may be productive of the most enormous evils. Were every member of the British House of Commons allowed a thousand guineas a year, they would

H. or R.]

Compensation of the President, &c.

[JULY 16, 1789.]

be less venal; we should not find them purchasing their seats, and selling their votes for places and pensions. The very money given in this way would furnish a handsome compensation for every member, and add something considerable, annually, to their sinking fund.

I apprehend, in establishing a compensation, we shall put it in the power of gentlemen, while here, to live as independent as they can at home. Perhaps I hazard a conjecture, when I say there is not a gentleman on this floor, I am certain there are not many, but have found, from experience, that six dollars per day is adequate to that object; certainly it cannot be the wish of any man to make the public service unpleasant, by rendering the situation of the members of Congress less eligible than a solitary retirement from patriotic pursuits would be. Any man who lives decently, will find six dollars a day not more than sufficient to defray the expense of a casual residence in a splendid city.

The experiment has been made. If a gentleman keeps a servant and his horses, and means to reciprocate the civilities he receives, I again assert the compensation is inadequate. It is true, we may live for two dollars a day; but how? There is a dignity attached to the situation of a Representative, with respect to his country; and the compensation might be 7 or 8 dollars per day, without granting the members more than a bare compensation. From all these considerations, I am induced to hope that gentlemen will indulge a little, and rather support an increase, than a diminution of pay.

As to the discrimination, it has been once decided against by a considerable majority; I have no doubt but it will now meet a similar fate; but be the decision of the House what it may, with respect to the quantum, or manner of compensation, I shall never fear to deliver my sentiments. On the present occasion, I wish them known to my constituents, and I am much mistaken if they are not coincident with their own.

Mr. SENEY—I am sorry, sir, that the question of discrimination has been brought before the House. Can any reason be assigned for making this distinction? Are the services of the Senate of more importance than those of the Representatives? I think not. Gentlemen have brought forward the constitution upon this occasion, but I conceive it to be opposite to the very principle they mean to advocate. This will destroy the independence of the several branches, which is to be strictly observed. If a discrimination should be established in favor of the Senate, will it not naturally tend to create a sense of inferiority in the minds of the Representatives? And the time may come when they may find it their interest to become subservient to the views of the Senate. I feel so sensibly, sir, the impropriety and unconstitutionality of this measure, that had I the most distant idea it would comport with the sentiments of a majority of the members of this House, I should call for the yeas and nays on

a division of the House upon the question. But as I do not conceive that to be the case, I shall waive the proposition for the present.

Mr. SEDGWICK said, that whenever he had a motion to make before the House, he endeavored to satisfy himself of the reasonableness and propriety of it. If he thought it proper, he did not consider the mode of decision that might be adopted of any material consequence; but in determining the present question, he hoped the yeas and nays would not be called. There is a principle in mankind which revolts at the idea of inferiority: a proposition, for example, shall be made, that has for its object the establishment of a superiority (howsoever necessary); that principle is alarmed and excited to opposition; to discuss such a question as the present, we ought to be divested of every partiality and prejudice, that might bias our judgment in deciding an affair that will not bear the test of reason and experience. I conceive the precedence of the Senate has been clearly pointed out by the Constitution. There are grades in society which are necessary to their very existence. This is a self-evident proposition; it is recognised by every civilized nation, and by the House in the report before us. For what reason have we made a difference between the President and Vice President? Is it not on account of his superior station and his dignity? And between the Vice President and the Senate? This distinction is likewise established by the constitution in the difference of the terms for which the members of the Senate and those of the House of Representatives are chosen. The time for which the Senate is chosen, demonstrates the propriety of a difference being made in the pay they ought to receive; the duties of their office require they should renounce every other avocation; their attention will be wholly taken up in the discharge of public business; therefore they should have an adequate and an independent allowance. The generality of the members being so far advanced in years, will drop every idea of engaging any more in their several professions, after having once engaged in the service of their country. Their age, wisdom, and experience, all warrant this discrimination. He concluded by saying, that the real dignity of the House was, he thought, so far from being diminished by adopting the proposition, that he conceived it was essentially connected with it.

Mr. STONE thought the House ought not to assist in elevating one branch of the Government more above the other than the constitution had done. This had given influence to the Senate by a negative in the cases of treaties and appointments. It had given importance to the House, by vesting them with the sole power of originating money bills. But both these powers could be exercised without a discrimination being made in the pay of the members; therefore he inferred that it was not contemplated by the constitution to make any such distinction.

A discrimination may eventually operate to

JULY 17, 1789.]

Compensation to the President, &c.

[H. OF R.]

the public injury; the House of Representatives may be desirous of terminating the session, but the Senate, finding the compensation they receive quite agreeable, may be inclined to protract it. He thought the true way of deciding on this subject, was to make the same allowance to both, and let it be such as not to induce them to protract the session on the one hand, or have a tendency to hurry over the business on the other.

Mr. JACKSON said, in reply to the inquiry of Mr. SEDGWICK—"Why have we made a difference between the President and the Vice President?" that the whole of the President's time would be taken up in the duties of his station; that the Vice President might retire to his farm whenever he thought proper. We refer, said he, to the wisdom of the Senate; but how is this superior wisdom to be discerned? If on this account a distinction is to be made, it necessarily follows, that a difference should be made between the members of this House, and those of the Senate. We cannot be too cautious how we establish an undue pre-eminence, and give an influence and importance to one branch of the Legislature over the other. All Governments incline to despotism, as naturally as rivers run into the sea. Despotism makes its way gradually, by slow and imperceptible steps; despotic power is never established all at once; we shall, ere we are aware, get beyond the gulf, and then we shall be astonished how we reached there. The services of the Senate are not more arduous than ours: their proper business is legislation, and I will never consent to any discrimination. If I imagined the question would be determined in favor of discrimination, I would call the yeas and nays, and should it be determined in favor of it, I will still call them on purpose that my constituents may see that I have voted against a measure which I look upon as injurious to the Government.

Mr. PAGE.—If he thought the discrimination proposed would have the tendency which some gentlemen apprehended, he would be the last man on the floor to support it. He would be as careful as any man how he extended the influence of any part of the Government, or gave it the least inclination towards aristocracy. But the apprehended gentlemen were deceived in their principle—he did not believe the doctrine that money confers importance, and he wished to evince to the world, that money, under this Government, would have no such effect. The Senate having more duties to perform, may require a larger pecuniary gratification; but this will not add to their importance. It will require something of this kind to stimulate gentlemen to undertake the service; for his part, he might consent to come here for two years, in order to assist in public business, but no inducement, hardly, could engage him to undertake it for six years. On this consideration, he thought the Senate ought to have annual salaries, and to such an amount as would render their situation independent and eligible.

If gentlemen are afraid of an aristocracy, they ought to be careful not to make the compensation too low, so as to exclude men of middling fortunes; the men of rank and distinguished opulence might serve without any pecuniary compensation; but the Government would not be safe, if it was exclusively in such hands. He wished to discriminate in favor of the Senate, but he would rather increase their pay to eight dollars, than reduce that of the members of this House, while he considered it but a moderate compensation.

The question on Mr. SEDGWICK's motion was taken, and lost by a considerable majority.

The House having now gone through the report, it was *Ordered*, that a bill or bills be brought in, pursuant thereto, and that Messrs. BURKE, STONE, and MOORE, be a committee to prepare and bring in the same; with instructions to insert a clause or clauses, making provision for a reasonable compensation to the Secretary of the Senate, and Clerk of the House of Representatives, respectively, for their services.

After which the House adjourned.

FRIDAY, July 17.

A petition from Leonard Harbough was presented to the House, and read, praying that an exclusive privilege may be granted him for a term of years, to make, use, and vend three machines, which he has invented for threshing and reaping grain, and for deepening docks, and which are calculated to facilitate labor, and aid the two great objects of agriculture and commerce.

Ordered, That the said petition do lie on the table.

The Speaker laid before the House a letter from Ebenezer Hazard, Postmaster-General of the United States, submitting the propriety of some immediate provision, by law, for the arrangement of that Department, which was read, and ordered to be referred to Messrs. BOWDITCH, GOODHUE, and LEE; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

A bill for settling the accounts between the United States and individual States, was read the second time, and ordered to be committed to the Committee of the whole House on Tuesday next.

A bill to provide for the government of the Territory northwest of the river Ohio, was read the second time, and ordered to be committed to a Committee of the whole House on Monday next.

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the bill for the establishment and support of light-houses, beacons, and buoys, and for authorizing the several States to provide and regulate pilots; and after some time spent therein,

The Chairman reported that the committee

H. or R.]

Amendments to the Constitution.

[JULY 21, 1789.]

had, according to order, had the said bill under consideration, and gone through the same, and made several amendments thereto, which he delivered in at the Clerk's table, where the same was twice read and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

MONDAY, July 20.

A message from the Senate informed the House, that they had passed the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs, with several amendments, to which they desired the concurrence of the House; that they have also passed a bill to establish the Judicial Courts of the United States, to which they desire the concurrence of the House.

Ordered, That a committee be appointed to bring in a bill or bills, providing for the establishment of hospitals for sick and disabled seamen, and for the regulation of harbors; and that Mr. SMITH (of South Carolina,) Messrs. CLYMER and CARROLL, do prepare and bring in the same.

The House resumed the consideration of the report on the petition of Andrew Ellicott, which lay on the table.

Whereupon,

Ordered, That the said report be re-committed to the same committee.

The House then proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for establishing an Executive Department, to be denominated the Department of Foreign Affairs," and the same being read, were agreed to.

The bill sent from the Senate, "to establish the Judicial Courts of the United States," was read the second time, and ordered to be committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the whole House, on the bill to provide for the government of the Territory northwest of the river Ohio, Mr. BODINOR in the chair;

And after some time being spent in considering the same, the committee rose and reported that they had, according to order, had the said bill under consideration, and gone through the same.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

TUESDAY, July 21.

An engrossed bill to provide for the government of the Territory northwest of the river Ohio, was read the third time and passed, and sent to the Senate for concurrence.

AMENDMENTS TO THE CONSTITUTION.

Mr. MADISON begged the House to indulge him in the further consideration of amendments

to the constitution, and as there appeared, in some degree, a moment of leisure, he would move to go into a Committee of the whole on the subject, conformably to the order of the 8th of last month.

Mr. AMES hoped that the House would be induced, on mature reflection, to rescind their vote of going into a committee on the business, and refer it to a select committee. It would certainly tend to facilitate the business. If they had the subject at large before a Committee of the whole, he could not see where the business was likely to end. The amendments proposed were so various, that their discussion must inevitably occupy many days, and that at a time when they can be ill spared; whereas a select committee could go through and cull out those of the most material kind, without interrupting the principal business of the House. He therefore moved, that the Committee of the whole be discharged, and the subject referred to a select committee.

Mr. SEDGWICK opposed the motion, for the reasons given by his colleague, observing that the members from the several States proposing amendments would no doubt drag the House through the consideration of every one, whatever their fate might be after they were discussed; now gentlemen had only to reflect on this, and conceive the length of time the business would take up, if managed in this way.

Mr. WHITE thought no time would be saved by appointing a select committee. Every member would like to be satisfied with the reasons upon which the amendments offered by the select committee are grounded, consequently the train of argument which gentlemen have in contemplation to avoid, must be brought forward.

He did not presume to say the constitution was perfect, but it was such as had met with the approbation of wise and good men in the different States. Some of the proposed amendments were also of high value; but he did not expect they would be supported by two-thirds of both Houses, without undergoing a thorough investigation. He did not like to refer any business to a select committee, until the sense of the House had been expressed upon it, because it rather tended to retard than despatch it; witness the collection bill, which had cost them much time, but after all had to be deserted.

Mr. SHERMAN.—The provision for amendments made in the fifth article of the constitution, was intended to facilitate the adoption of those which experience should point out to be necessary. This constitution has been adopted by eleven States, a majority of those eleven have received it without expressing a wish for amendments; now, is it probable that three-fourths of the eleven States will agree to amendments offered on mere speculative points, when the constitution has had no kind of trial whatever? It is hardly to be expected that they will. Consequently we shall lose our labor, and had better decline having any thing further to do with it for the present.

JULY 21, 1789.]

Amendments to the Constitution.

[H. OF R.]

But if the House are to go into a consideration, it had better be done in such a way as not to interfere much with the organization of the Government.

Mr. PAGE hoped the business would proceed as heretofore directed. He thought it would be very agreeable to the majority of the Union, he knew it would be to his constituents, to find that the Government meant to give every security to the rights and liberties of the people, and to examine carefully into the grounds of the apprehensions expressed by several of the State conventions; he thought they would be satisfied with the amendments brought forward by his colleague, when the subject was last before the House.

Mr. PARTRIDGE knew the subject must be taken up in some way or other, and preferred, for the sake of expedition, doing it by a select committee.

Mr. JACKSON was sorry to see the House was to be troubled any further on the subject; he looked upon it as a mere waste of time; but as he always chose the least of two evils, he acquiesced in the motion for referring it to a special committee.

Mr. GERRY asked, whether the House had cognizance of the amendments proposed by the State conventions? If they had not, he would make a motion to bring them forward.

Mr. PAGE replied, that such motion would be out of order, until the present question was determined.

A desultory conversation ensued, and it was questioned whether the subject generally was to be before the Committee of the whole, or those specific propositions only which had already been introduced.

Mr. GERRY said, that it was a matter of indifference how this question was understood, because no gentleman could pretend to deny another the privilege of bringing forward propositions conformably to his sentiments. If gentlemen, then, might bring forward resolutions to be added, or motions of amendment, there would be no time saved by referring the subject to a special committee. But such procedure might tend to prejudice the House against an amendment neglected by the committee, and thereby induce them not to show that attention to the State which proposed it that would be delicate and proper.

He wished gentlemen to consider the situation of the States; seven out of thirteen had thought the constitution very defective, yet five of them have adopted it with a perfect reliance on Congress for its improvement. Now, what will these States feel if the subject is discussed in a select committee, and their recommendations totally neglected? The indelicacy of treating the application of five States in a manner different from other important subjects, will give no small occasion for disgust, which is a circumstance that this Government ought carefully to avoid. If, then, the House could gain nothing by this manner of proceeding, he

hoped they would not hesitate to adhere to their former vote for going into a Committee of the whole. That they would gain nothing was pretty certain, for gentlemen must necessarily come forward with their amendments to the report when it was brought in. The members from Massachusetts were particularly instructed to press the amendments recommended by the convention of that State at all times, until they had been maturely considered by Congress; the same duties were made incumbent on the members from some other States; consequently, any attempt to smother the business, or prevent a full investigation, must be nugatory, while the House paid a proper deference to their own rules and orders. He did not contend for going into a Committee of the whole at the present moment; he would prefer a time of greater leisure than the present, from the business of organizing the Government.

Mr. AMES declared to the House, that he was no enemy to the consideration of amendments; but he had moved to rescind their former vote, in order to save time, which he was confident would be the consequence of referring it to a select committee.

He was sorry to hear an intention avowed by his colleague, of considering every part of the frame of this constitution. It was the same as forming themselves into a convention of the United States. He did not stand for words, the thing would be the same in fact. He could not but express a degree of anxiety at seeing the system of Government encounter another ordeal, when it ought to be extending itself to furnish security to others. He apprehended, if the zeal of some gentlemen broke out on this occasion, that there would be no limits to the time necessary to discuss the subject; he was certain the session would not be long enough; perhaps they might be bounded by the period of their appointment, but he questioned it.

When gentlemen suppose themselves called upon to vent their ardor in some favorite pursuit, in securing to themselves and their posterity the inestimable rights and liberties they have just snatched from the hand of despotism, they are apt to carry their exertions to an extreme; but he hoped the subject itself would be limited; not that he objected to the consideration of the amendments proposed, indeed he should move himself for the consideration, by the committee, of those recommended by Massachusetts, if his colleagues omitted to do it; but he hoped gentlemen would not think of bringing in new amendments, such as were not recommended, but went to tear the frame of Government into pieces.

He had considered a select committee much better calculated to consider and arrange a complex business, than a Committee of the whole; he thought they were like the senses to the soul, and on an occasion like the present, could be made equally useful.

If he recollected rightly the decision made by the House on the 8th of June, it was that

H. OF R.]

Amendments to the Constitution.

[JULY 21, 1789.]

certain specific amendments be referred to the Committee of the whole; not that the subject generally be referred, and that amendments be made in the committee that were not contemplated, before. This public discussion would be like a dissection of the constitution, it would be defacing its symmetry, laying bare its sinews and tendons, ripping up the whole form, and tearing out its vitals; but is it presumable that such conduct would be attended with success? Two thirds of both Houses must agree in all these operations, before they can have effect. His opposition to going into a Committee of the whole, did not arise from any fear that the constitution would suffer by a fair discussion in this, or any other House; but while such business was going on, the Government was laid prostrate, and every artery ceased to beat. The unfair advantages that might be taken in such a situation, were easier apprehended than resisted. Wherefore, he wished to avoid the danger, by a more prudent line of conduct.

Mr. TUCKER would not say whether the discussion alluded to by the gentleman last up would do good or harm, but he was certain it ought to take place no where but in a Committee of the whole; the subject is of too much importance for a select committee. Now, suppose such a committee to be appointed, and that the amendments proposed by the several States, together with those brought forward by the gentleman from Virginia, are referred to them; after some consideration they report, but not one of the amendments proposed by either State; what is the inference? They have considered them, and as they were better capable than the House of considering them, the House ought to reject every proposition coming from the State conventions. Will this give satisfaction to the States who have required amendments? Very far from it. They will expect that their propositions would be fully brought before the House, and regularly and fully considered; if indeed then they are rejected, it may be some satisfaction to them, to know that their applications have been treated with respect.

What I have said with respect to the propositions of the several States, may apply in some degree to the propositions brought forward by the gentleman (Mr. MADISON) from Virginia; the select committee may single out one or two; and reject the remainder, notwithstanding the vote of the House for considering them. The gentleman would have a right to complain, and every State would be justly disgusted.

Will it tend to reconcile the Government to that great body of the people who are dissatisfied, who think themselves and all they hold most dear, unsafe under it, without certain amendments are made? Will it answer any one good purpose to slur over this business, and reject the propositions without giving them a fair chance of a full discussion? I think not. Mr. Speaker. Both the Senate and this House

ought to treat the present subject with delicacy and impartiality.

The select committee will have it in their power so to keep this business back, that it may never again come before the House; this is an imprudent step for us to take; not that I would insinuate it is an event likely to take place, or which any gentleman has in contemplation. I give every gentleman credit for his declaration, and believe the honorable mover means to save time by this arrangement; but do not let us differ on this point. I would rather the business should lie over for a month, nay, for a whole session, than have it put into other hands, and passed over without investigation.

Mr. GERRY inquired of his colleague, how it was possible that the House could be a federal convention without the Senate, and when two-thirds of both Houses are to agree to the amendments? He would also be glad to find out how a committee was the same to the House as the senses to the soul? What, said he, can we neither see, hear, smell, or feel, without we employ a committee for the purpose? My colleague further tells us, that if we proceed in this way, we shall lay bare the sinews and tendons of the constitution; that we shall butcher it, and put it to death. Now, what does this argument tend to prove? Why, sir, to my mind, nothing more nor less than this, that we ought to adopt the report of the committee, whatever the report may be; for we are to judge by the knowledge derived through our senses, and not to proceed on to commit murder. If these are the arguments to induce the House to refer the subject to a select committee, they are arguments to engage to go further, and give into the hands of select committees the whole legislative power. But what was said respecting a public discussion? Are gentlemen afraid to meet the public ear on this topic? Do they wish to shut the gallery doors? Perhaps nothing would be attended with more dangerous consequences. No, sir, let us not be afraid of full and public investigation. Let our means, like our conclusions, be justified; let our constituents see, hear, and judge for themselves.

The question on discharging the Committee of the whole on the state of the Union from proceeding on the subject of amendments, as referred to them, was put, and carried in the affirmative—the House divided, 34 for it, and 15 against it.

It was then ordered that Mr. MADISON's motion, stating certain specific amendments, proper to be proposed by Congress to the Legislatures of the States, to become, if ratified by three-fourths thereof, part of the constitution of the United States, together with the amendments to the said constitution, as proposed by the several States, be referred to a committee, to consist of a member from each State, with instruction to take the subject of amendments to the constitution of the United States generally into their consideration, and to report thereupon to the House.

JULY 23, 1789.]

Western Lands.

[H. OF R.]

The committee appointed were, Messrs. VINING, MADISON, BALDWIN, SHERMAN, BURKE, GILMAN, CLYMER, BENSON, GOODHUE, BOUDINOT, and GALE.

Then the House adjourned.

WEDNESDAY, July 22.

Mr. BURKE, from the committee appointed for the purpose, presented a bill for allowing a compensation to the President and Vice President of the United States; which was received, and read the first time.

Ordered, That it be an instruction to the committee appointed to bring in a bill for making a compensation to the members of the Senate and House of Representatives, that they do insert a clause or clauses, making compensation to the Serjeant-at-Arms, Messengers, and Door-keepers of the two Houses, for their services.

A petition was presented from Hannah Adams, praying that an exclusive privilege may be granted her, for a limited time, to publish and vend a work which she has compiled, entitled "An Alphabetical Compendium of the various religious sects which have appeared in the world, from the Christian era to the present day, with an appendix, containing a brief account of the different schemes of religion now embraced among mankind."

Ordered, That the petition do lie on the table.

The House resolved itself into a Committee of the whole House on the bill for settling the accounts between the United States and individual States, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose, and reported that they had gone through the same, and made no amendment thereto.

On motion, *Ordered*, That the Committee of the whole House be discharged from further proceedings on the said bill, and that it be re-committed to Mr. BALDWIN, Mr. STURGES, and Mr. SMITH of South Carolina.

WESTERN LANDS.

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose and reported that they had had the state of the Union under consideration, and come to a resolution thereupon, which was read and then delivered in at the clerk's table, where the same was twice read, and agreed to by the House, as follows:

Resolved, That an act of Congress ought to pass for establishing a Land Office, and for regulating the terms and manner of granting vacant and unappropriated lands, the property of the United States; that the said office be under the superintendence of the Governor of the Western Territory; that the land to be disposed of be confined to the following limits, viz:

That the tracts or parcels to be disposed of to any one person, shall not exceed — acres; that the price to be required for the same shall be — per acre;

and that every person actually settled within the said limits shall be entitled to the pre-emption of a quantity not exceeding — acres, including his settlement.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. SCOTT, Mr. SYLVESTER, and Mr. MOORE, do prepare and bring in the same.

THURSDAY, July 23.

A bill for allowing a compensation to the President and Vice President of the United States was read the second time, and ordered to be engrossed and read the third time to-morrow.

On motion,

Resolved, That a committee be appointed to examine into the measures taken by Congress and the State of Virginia respecting the lands reserved for the use of the officers and soldiers of said State, on continental and State establishments, in the cession made by the said State to the United States, of the territory northwest of the river Ohio, and to report the same to this House, and that Mr. WHITE, Mr. PETER MULLENBURG, and Mr. SENEY, be of the said committee.

HOME DEPARTMENT.

On motion of Mr. VINING, the House resolved itself into a Committee of the whole on the state of the Union, Mr. BOUDINOT in the chair.

Mr. VINING introduced a resolution for the adoption of the committee, by which it is declared: That an Executive department ought to be established, and to be denominated the Home Department; the head of which to be called the Secretary of the United States for the Home Department; whose duty it shall be to correspond with the several States, and to see to the execution of the laws of the Union; to keep the great seal, and affix the same to all public papers, when necessary; to keep the lesser seal, and to affix it to commissions, &c.; to make out commissions, and enregister the same; to keep authentic copies of all public acts, &c., and transmit the same to the several States; to procure the acts of the several States, and report on the same when contrary to the laws of the United States; to take into his custody the archives of the late Congress; to report to the President plans for the protection and improvement of manufactures, agriculture, and commerce; to obtain a geographical account of the several States, their rivers, towns, roads, &c.; to report what post-roads shall be established; to receive and record the census; to receive reports respecting the Western Territory; to receive the models and specimens presented by inventors and authors; to enter all books for which patents are granted; to issue patents, &c.; and, in general, to do and attend to all such matters and things as he may be directed to do by the President.

Mr. BENSON objected to some of the duties mentioned in the resolution. He thought the less the Government corresponded with particular States the better, and there could be no necessity for an officer to see to the execution of

H. OF R.]

Home Department.

[JULY 23, 1789.]

the laws of the United States, when there was a Judiciary instituted with adequate powers.

Mr. WHITE was not convinced that there was a necessity for establishing a separate department for all or any of the duties contained in the resolution. The correspondence with the States belonged to the Executive. To see to the execution of the laws was the duty of the Judiciary. The great seal might be kept by the Secretary of Foreign Affairs; the lesser seal might be deposited in the same hands. Commissions might be made out by the departments to which the officer is connected. The Secretary of the Senate and Clerk of the House might transmit the public acts, and keep records thereof. What have Congress to do with the acts of States? If they interfere with the constitutional powers of the Government, the Judges will prevent their operation. The papers of the late Congress may be distributed among the officers to which they relate; the rest may be deposited with the officers of Congress. The want of the reports on manufactures, agriculture, and commerce, may be supplied by Congress. The post roads may be left to the Postmaster General. The census must be returned to Congress, and they will preserve it among their files. And it can hardly be thought necessary to establish a great department for the purpose of receiving the models, specimens, and books, presented by authors and inventors. If none of these things are requisite to be done by a great department, why should the United States incur the expense which such an arrangement must necessarily draw along with it.

Mr. HUNTINGTON thought the Secretary of Foreign Affairs was not so much overcharged with business but that he might attend to the major part of the duties mentioned in the resolution.

Mr. VINING said he had waited until the great Executive departments were established; but none of those had embraced the duties contained in his proposition, which he conceived to be of great importance: many of the duties were as essential as those of any other department, except the Treasury. As for their belonging to the Executive, as was said by the gentleman from Virginia, he admitted it; but they were, nevertheless, as proper to be put into the hands of a principal officer under the President, as the War office, or office of Foreign Affairs; the duties of these were specially within the Executive department of the Government. He conceived that the President ought to be relieved from the inferior duties of his station, by officers assigned to attend to them under his inspection; he could then, with a mind free and unembarrassed with the minutiae of business, attend to the operations of the whole machine.

If the office was admitted to be necessary, and he was certain the performance of the duties were useful and essential, the expense could be no solid objection, because the information it would furnish would more than counterbalance that article.

The question he conceived to be reduced to this, whether a confidential officer would not be more useful than any other, and whether the duties could be distributed among the officers already instituted. For his part, he conceived most of them foreign to either of those officers; and that they could not be performed with advantage any other way than by an officer appointed specially for the purpose. He thought every gentleman would admit that the duties were important, and he assured them that his only reason for bringing the motion forward was, to provide for the public good. He had no personal motives in pressing it; he disclaimed every idea of serving any particular man by the arrangement, and rested it solely upon its merits.

Mr. SEDGWICK believed the honorable gentleman in his assertions, that he had no personal motive in pressing this business. He believed that he thought it essential, and if his sentiments were the same, he would join the gentleman in supporting the motion; but after duly considering the subject, he was inclined to believe that the office was unnecessary, and that it would be squandering the public money, at a time when the greatest economy is requisite. He thought the principal part of the duties might be assigned to the Secretary of Foreign Affairs; and he would, if the committee negatived the present motion, introduce another for that purpose.

Mr. GERRY thought the burthens of the people would be sufficiently great in providing the supplies absolutely necessary for the support of the Government; therefore it would be improper to add expenses which might possibly be avoided. The people are viewing the proceedings of Congress with an attentive solicitude, and if they observe that we erect offices for which there is no apparent necessity, they will be apt to think we are providing sinecures for men whom we favor; they will reluctantly pay what is extracted from their earnings to a Government which they think is regardless of economy. They will suspect a further view in the change of Government. They will suppose that we contemplate the establishment of a monarchy, by raising round the Executive a phalanx of such men as must be inclined to favor those of whom they hold their places.

Mr. VINING.—Why do gentlemen say that such an office is unnecessary, when they are forced to admit that all the duties are essential? Or how can they say it is more expensive to establish it in this way than in another? Suppose these duties distributed in the manner which some gentleman have mentioned, is it not fairly to be presumed that the departments to which any of them are attached, will require an extra pay for these extra services? If so, will there be any economy in this mode of procedure? All that is to be wished for, is to have a confidential person employed, let his salary be what you please: if it is not worth fifteen hundred dollars per annum, let it be five hundred. But

JULY 24, 1789.]

Committee of Ways and Means.

[H. OF R.]

it would be better to have a principal to manage the business than to have it consigned to clerks in the other departments.

Mr. LAWRENCE said that something was necessary to be done with respect to the business brought forward by the honorable gentleman from Delaware. He conceived that an officer of the rolls, or some inferior officer, ought to be appointed to transact the business detailed in the resolution; he did not insist upon making a great department.

Mr. SEDGWICK agreed with the gentleman from New York; but, he thought, the business might be thrown into some other department, and save to the Union the expense of the one which the gentleman from Delaware wished to establish, by the name of the Home Department. He thought the resolution proposed altogether so improper, that he hoped the committee would rise.

A desultory conversation arose, whether the committee should decide upon the resolution or not; after which a question was taken on the rising of the committee, and decided in the negative.

Then the question was put on the first part of Mr. VIXING's proposition, viz. "That an Executive Department ought to be established, to be denominated the Home Department;" and lost by a considerable majority.

It was then moved and seconded, that the committee rise, which being agreed to, the committee rose and reported that they had, according to order, had the state of the Union under consideration, but had come to no resolution thereon.

A motion was then made by Mr. SEDGWICK, that a committee be appointed to bring in a bill supplementary to the act for establishing the Department of Foreign Affairs, declaring that department to be hereafter denominated —, and that the principal officer in that department shall have the custody of the records and seal of the United States, and that such bill do contain a provision for the fees of office to be taken for copies of records, and further provision for the due publication of the acts of Congress, and such other matters relating to the premises, as the committee shall deem necessary to be reported to this House.

And the question being put thereupon, it passed in the negative.

Another petition from Baron de Glaubeck was presented and read, praying the attention of Congress to his former petition, to be compensated for certain losses and military services rendered during the late war.

Mr. PAGE, from the committee appointed for the purpose, made a further report on Andrew Ellicott's memorial, after which the House adjourned.

FRIDAY, July 21.

The engrossed bill allowing a compensation to the President and Vice President, was read the third time; when, on motion, it was com-

mitted to a Committee of the whole House: whereupon the House resolved itself into a committee on the bill, and made some amendments therein. They then reported the bill with the amendments to the House, which were ordered to lie on the table.

Mr. GERRY presented a bill for registering and clearing vessels, ascertaining their tonnage, and for regulating the coasting trade, which was read a first time, and ordered to lie on the table.

Mr. BALDWIN, from the select committee to whom was committed the bill for settling the accounts between the United States and the individual States, reported, that the committee had, according to order, had the said bill under consideration, and made amendments thereto, which he read in his place, and afterwards delivered in at the Clerk's table, where the same was again read twice, amended, and agreed to by the House, and ordered to be engrossed.

A petition from Nathaniel Gorham, of the State of Massachusetts, was presented and read, setting forth that Oliver Phelps, Esq. and the petitioner, are interested, by purchase from the said State of Massachusetts, in certain lands which will be materially affected by the line directed to be run between the United States and the State of New York, and praying that such measures may be taken therein as shall be consistent with a due regard to the rights of the said Phelps and the petitioner.

Ordered to lie on the table.

COMMITTEE OF WAYS AND MEANS.

Mr. FIRZSIMONS.—The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have ever been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of three millions of dollars in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and instalments on the foreign and domestic debt. If we wish to have more particular information on these points, we ought to appoint a Committee of Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.

Mr. GERRY said, the estimate reported by a committee was as accurate as possible. From this it appeared, that eight millions of dollars would be necessary for the support of Government, for the interest and instalments becoming due, and for the arrearages already due. He remarked, that we had been already dunned on this subject by foreigners, and that Congress would have to make provision for their pay-

H. of R.]

Rules for Enrollment.

[JULY 27, 1789.]

ment. If three millions of dollars were employed to this use, it would only be carrying the arrearages into another year; but, as they must be paid at last, he recommended making an immediate exertion as a better way of giving satisfaction than procrastination would be. He thought it best to lay the real situation of this country before the House, and not endeavor to make things appear better than they really are.

With respect to the publication of the estimate in the papers, he knew nothing about it; he admitted that it was such a one as ought not to be published by order of Congress. He approved of the idea of appointing a Committee of Ways and Means, if it were only to ascertain what part of the interest on the debt should be paid, and what of the principal extinguished within the current year, from the funds already provided.

Mr. FITZSIMONS did not mean to reflect upon the committee who had reported the estimate, in any thing he had said; but he thought it of such a nature as to require it to be referred to a Committee of Ways and Means. He observed, that the arrearages were due by several of the States on the former requisitions of Congress, and if these were paid up, the great demand might be satisfied. He doubted whether the whole arrearages of interest on the domestic debt would be expected to be provided for at the first session of Congress; but he was certain, that, in a little time, the Government would be able to discharge all these incumbrances, and to pay the interest on their debt with such a degree of punctuality, as would give satisfaction to every individual creditor.

A Committee of Ways and Means was then appointed, consisting of Messrs. FITZSIMONS, VINING, LIVERMORE, CADWALADER, LAWRENCE, WADSWORTH, JACKSON, SMITH, (of Maryland,) SMITH, (of South Carolina,) and MADISON, to whom it was referred to consider the report of a committee appointed to prepare an estimate of supplies requisite for the services of the United States for the current year, and to report thereon.

The House then adjourned.

MONDAY, July 27.

The engrossed bill for settling the accounts between the United States and individual States, was read the third time, and the blanks being filled, the bill passed.

JOINT RULES FOR ENROLMENT.

The House resolved itself into a Committee of the whole House, on the report of the committee appointed to confer with a committee of the Senate, in preparing joint rules to be established between the two Houses for the enrolment, attestation, publication, and preservation of the acts of Congress, and to regulate the mode of presenting addresses and other acts to the President of the United States, Mr. BOUNDINOT in the chair.

After some time the committee rose, and re-

ported, that they had had the said report under consideration, and gone through the same, and come to several resolutions thereupon, which were delivered in at the Clerk's table, where the same were severally twice read, and agreed to by the House, as follows:

Resolved, That it is the opinion of this committee, that the following ought to be established joint rules between the two Houses, to wit:

That while the bills are on their passage between the two Houses, they shall be on paper, and under the signature of the Secretary or the Clerk of each House respectively.

After a bill shall have passed both Houses, it shall be duly enrolled on parchment by the Clerk of the House of Representatives, or the Secretary of the Senate, as the bill may have originated in the one or the other House, before it shall be presented to the President of the United States.

When bills are enrolled, they shall be presented by a joint committee of one from the Senate, and two from the House of Representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrolled with the engrossed bills, as proposed in the two Houses, and correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the House of Representatives, and then by the President of the Senate.

After a bill shall thus have been signed in each House, it shall be presented, by the said committee, to the President of the United States for his approbation, it being first endorsed on the back of the roll, certifying in which House the same originated; which endorsement shall be signed by the secretary, or clerk, (as the case may be,) of the House in which the same did originate, and shall be entered on the journals of each House. The said committee shall report the day of presentation to the President, which time shall be also carefully entered on the journals of each House.

All orders, resolutions, and votes, which are to be presented to the President of the United States for his approbation, shall also, in the same manner, be previously enrolled, examined, and signed; and shall be presented in the same manner, and by the same committee, as provided in case of bills.

That when the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience chamber, by the President of the Senate, and in the presence of the Speaker and both Houses.

Resolved, That it is the opinion of this committee, that a committee ought to be appointed to prepare and bring in a bill or bills, to provide, without the establishment of a new department, for the safe keeping of the accounts, records, and seal of the United States; for the authentication of records and papers; for establishing the fees of office to be taken for commissions, and for copies of records and papers; for making out and recording commissions, and prescribing their form; and to provide for the due publication of the acts of Congress.

Ordered, That a committee be appointed, pursuant to the second resolution, and that Messrs. SEDGWICK, MATTHEWS, and WYNKOOP be of the said committee.

AUGUST 3, 1789.]

Registering of Vessels.

[H. or R.]

TUESDAY, July 28.

Mr. VINING, from the committee to whom it was referred to take the subject of amendments to the constitution generally into their consideration, and to report thereon, made a report, which was ordered to lie on the table.

A message from the Senate informed the House, that they had passed the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, with several amendments, to which they desired the concurrence of the House.

The House immediately took said amendments into consideration, and concurred therewith.

The petitions of the Baron de Glaubeck, heretofore laid on the table, were referred to a select committee, consisting of Messrs. PAGE, SUMNER, and HEISTER.

The bill for registering and clearing vessels, and for regulating the coasting trade, was read a second time; and, on motion, the House resolved itself into a Committee of the whole upon it, Mr. BOUDINOT in the chair; and, after making some progress in its consideration, rose, and obtained leave to sit again.

WEDNESDAY, July 29.

The House again resolved itself into a Committee of the whole, Mr. BOUDINOT in the chair, on the bill for registering and clearing vessels, and for regulating the coasting trade; and agreed to some amendments thereto; but not having got through the same, rose, and obtained leave to sit again.

THURSDAY, July 30.

Mr. LIVERMORE introduced a resolution to supply each member, at the public expense, with two newspapers of the city, daily, such as he should choose. Ordered to lie on the table.

A message from the Senate informed the House that they had passed the bill for settling the accounts between the United States and the individual States, without amendment.

REGISTERING VESSELS.

The House again went into a Committee of the whole on the bill for registering and clearing vessels, and for regulating the coasting trade; and having gone through it, reported the bill with the proposed amendments. The House agreed to some of the amendments, negatived others, and made some additional ones. The House adjourned before the discussion on the bill was closed.

FRIDAY, July 31.

Mr. PAGE, from the committee to whom the petitions of the Baron de Glaubeck were referred, made a report, which was ordered to lie on the table.

Mr. SCOTT, from the committee appointed for the purpose, brought in a bill for establishing a Land Office for the Western Territory, which was read and laid on the table.

On motion,

Resolved, That a standing committee be appointed to examine the enrolled bills, and to present the same to the President for his approbation and signature.

MESSRS. WHITE and PARTRIDGE were accordingly appointed.

Mr. WHITE, of the committee appointed to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of said State, &c. brought in a report, which was read and laid on the table.

The House then resumed the consideration of the amendments agreed upon in Committee of the whole, to the bill for registering and clearing vessels; which being finished, the bill was ordered to be engrossed for a third reading on Monday next.

A message from the Senate informed the House that they had passed the bill for establishing the Treasury Department, with amendments; to which they desired the concurrence of the House.

Mr. SEDGWICK, from the committee appointed for the purpose, brought in a bill to provide for the safe keeping of the acts, records, and great seal of the United States, for the publication, preservation, and authentication of the acts of Congress, &c.; which was read and laid on the table.

MONDAY, August 3.

A message from the Senate informed the House that they had passed the bill for the establishment of light-houses, beacons, and buoys, with several amendments; to which they desired the concurrence of this House.

The amendments of the Senate were immediately considered and agreed to.

The engrossed bill for regulating the coasting trade was read a third time; and, on motion, recommitted to a Committee of the whole, to be taken up to-morrow.

The bill for establishing a Land Office for the Western Territory was read a second time, and made the order of the day for Thursday.

The bill to provide for the safe keeping of the acts, records, great seal, &c. was read, and made the order of the day for Friday.

The report of the committee on amendments to the constitution was, on motion of Mr. MADISON, made the order of the day for Wednesday sennight.

Mr. BENSON made a motion as follows:

Resolved, That a committee be appointed to join with a committee of the Senate to be appointed for the purpose, to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business now before Congress, necessary to be finished before the ad-

H. OF R.]

Compensation of Members.

[AUGUST 5, 1789.]

jourment, and such as may be conveniently postponed to the next session; and also to consider and report such matters not now before Congress, but which it will be necessary should be considered and determined by Congress before an adjournment.

The bill for establishing the Treasury Department, with the amendments proposed by the Senate, being read, were acceded to in part; the consideration of two articles was postponed till to-morrow.

The bill for allowing compensation for their services to the President and Vice President of the United States, was taken up; and on motion of Mr. SMITH, of South Carolina, a clause was added to the bill, by which the President is to have the use of the furniture and other effects now in his possession, belonging to the United States.

The bill was then ordered to be engrossed for a third reading to-morrow, and then the House adjourned.

TUESDAY, August 4.

A petition of sundry freeholders of the county of Cumberland, in the State of Pennsylvania, whose names were therunto subscribed, was presented to the House, and read, praying that the District and Circuit Judicial Courts of the United States, to be established in the said State, may be fixed in some central place therein, convenient to the citizens thereof at large.

Also, a petition of Christopher Collis, of the city of New York, praying that an exclusive privilege may be granted him in the benefits of an invention which he has reduced to practice, for counting, with the utmost precision, the number of revolutions or vibrations of any wheel, or other part of any mechanical engine or machine.

An engrossed bill for making compensation to the President and Vice President of the United States, was read the third time, and passed, and sent to the Senate for their concurrence.

COMPENSATION OF MEMBERS.

Mr. BURKE, from the committee appointed for the purpose, brought in a bill for allowing a compensation to the members of both Houses, and to their respective officers; this bill provides that the compensation shall be as follows, viz.

To each member of the Senate and House, six dollars per day.

Speaker of the House, twelve dollars per day.

To the Secretary of the Senate, and Clerk of the House, each fifteen hundred dollars a year, and two dollars a day each during the session of the Legislature; one principal clerk to each, at three dollars a day during the session; one engrossing clerk to each, at two dollars a day during the session.

Serjeant-at-arms, three dollars a day during the session.

Door-keeper to the House and Senate, each seven hundred and thirty dollars a year.

Assistant door-keepers, during the session,

one dollar and fifty cents a day each. This bill was laid on the table.

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the bill for registering and clearing vessels, and regulating the coasting trade. After some time being spent therein, and going through the bill,

The Chairman reported, that the committee had, according to order, had the said bill under consideration, and gone through the same, and had made several amendments thereto, which he delivered in at the clerk's table, where the same were twice read, and agreed to by the House.

Mr. BENSON's motion of yesterday, respecting the adjournment, was agreed to by the House, and a committee appointed for the purpose, consisting of Messrs. WADSWORTH, CARROLL, and HARTLEY.

The House resumed the consideration of the amendments proposed by the Senate to the bill to establish the Treasury Department. Whereupon,

Resolved, That this House doth agree to so much of the eighth amendment, as proposes to strike out these words in the seventh clause in the bill, to wit, "The assistant to the Secretary of the Treasury shall be appointed by the President;" and doth disagree to such other part of the said amendment, as proposes to strike out the residue of the clause.

After which the House adjourned.

WEDNESDAY, August 5.

A message from the Senate informed the House that they had passed an act to establish an Executive Department, to be denominated the Department of War, with several amendments, to which they desired the concurrence of the House. That they have also passed the bill to provide for the government of the Territory northwest of the river Ohio, with several amendments, to which they desired the concurrence of this House.

The House proceeded to consider the amendments to the said bills, and they were severally agreed to.

Resolved, That a committee be appointed to bring in a bill to establish the salaries of the Executive Officers of Government, with their assistants and clerks.

Whereupon Messrs. FITZSIMONS, LAWRENCE, and GRIFFIN were appointed.

An engrossed bill for registering and clearing vessels was read a third time and passed, and sent to the Senate for their concurrence.

The House then resolved itself into a Committee of the whole, on the bill for allowing compensation to the members of the Senate and the House of Representatives of the United States, and to the officers of both Houses, Mr. BOURNOR in the chair.

Mr. GOODHUE moved to strike out six dollars, as the pay of each member per diem.

Mr. CARROLL inquired, if it was not out of

AUGUST 5, 1789.]

Compensation of Members.

[H. or R.]

order for the committee to alter principles, after they had been settled by the House.

Mr. PAGE wanted to know whether the gentleman meant to increase or diminish the sum, for he presumed it was not intended to be left a blank altogether; but he hoped the House would do neither. It had been settled, after mature deliberation, at six dollars; the House certainly thought that sum enough, and if it was more, that it would be too much; he was satisfied with this determination, and would adhere to it. Perhaps the gentleman meant to strike out the six dollars, in order to make a discrimination between the members of this House and the Senate; if so, he had better move to increase the compensation of the Senators, and here he would second him, because he thought their services required more.

He would once more mention his fears relative to a small sum. He dreaded the abuse of economy, and was suspicious that a parsimonious provision, would throw the Government into the hands of bad men, by which the people might lose every thing they now held dear. He thought few would serve for a smaller sum than he would, and he was confident the allowance was as moderate as any man could expect. Gentlemen who come a great distance, are put to considerable expense, and their domestic arrangements destroyed: instead of laying up money by their attendance here, it was almost certain they would spend part of their private estates.

If it is meant that the republic should be provided with good and wholesome laws, a proper provision should be made, to bring into the councils of the Union such men as are qualified to secure them well; it is not to be expected that the spirit of patriotism will lead a man into the perpetual habit of making such exertions and sacrifices as are too often necessary in the hour of danger. No man ought to be called into the services of his country, and receive less than will defray the expenses he incurs by performing his duty. If he does, the public affairs, in the time of tranquillity, will get exclusively into the hands of nabobs and aspiring men, who will lay the foundation of aristocracy, and reduce their equals to the capacity of menial servants or slaves.

Mr. SEDGWICK seconded the motion for striking out. He had endeavored to view this subject impartially, uninfluenced by any local considerations or circumstances; and under these impressions, he was led to believe, from all the information he had received, whether from abroad, or from an examination in his own mind, of the effects it would produce, that it would be expedient to establish the compensation at a lower sum. He really did not see any solid ground for the apprehensions which his worthy friend from Virginia (Mr. PAGE) had discovered; he had heard it often said, that if salaries and allowances to public officers were small, you would not be able to command the services of good men; but it was contradicted

by the fact. He would instance the late appointments, and ask gentlemen, whether they conceived better men could have been procured, if the compensation had been doubled? If it was fair to reason by experience and analogy, he should conclude there would be no difficulty in procuring good and respectable men, to serve in this House, at a less rate than six dollars per day. He had never yet observed that men of small property shrunk from the expense of serving in the councils of their country.

He thought the practice of the States was opposed to so high a compensation; many of the State Legislatures allowed their members a dollar and ten shillings a day, and yet they were served by good men.

He had been informed that it was thought by men of sense and intelligence, that although six dollars might not be too great an allowance for the services of the members of this House, yet, considering the present circumstances of the people, it would be good policy to reduce the same. He inclined to this opinion himself.

Impressed with these ideas, and knowing that it was generally the opinion of the people, that six dollars was more than a moderate compensation to the members of this House, he should support the motion for striking out with a view to reduce the sum.

Mr. VINING said, the gentleman from Maryland (Mr. CARROLL) had taken the subject up in a proper point of view, by inquiring into the point of order. He begged gentlemen to consider the manner in which the subject had been discussed already—twice in the House, and twice in committee; every decision had been the same; why should the point so often determined, be again agitated? It is contrary to all Parliamentary proceeding, and the House will never know when principles are settled.

He was certain that six dollars was but a moderate compensation, if a member is to reside at the metropolis of the United States. He would admit that they could live for less, in some more central part of the country; but the gentlemen from the eastward should recollect that a small allowance would be an argument for removing Congress from this city, and when that time arrived, he should consent to a lower sum, but not till then.

Mr. FITZSIMONS did not expect to hear the subject discussed again; he thought it unnecessary, because he believed every gentleman would decide more upon his own feelings, than upon the arguments that could be adduced; he would however just remind the committee, that six dollars was about the average of what the members from the several States had under the late confederation.

Mr. SEDGWICK.—According to the observation made by the gentleman from Pennsylvania, it will be deemed insolent to reason on this subject: what I offered before, I brought forward with candor; but shall we be precluded from debate, because a subject has been once discussed? Sir, when I moved, some days ago, to

H. OF R.]

Compensation of Members.

[August 6, 1789.]

reduce the pay of the members to five dollars, I was rather indifferent about it; but since then, I have been so well convinced of the necessity there is for such a measure, that I cannot decline pressing it once more upon the committee.

Mr. STONE thought the public mind would not be much influenced by the trifling difference between five and six dollars. They pay greater regard to the decisions of the House, on more important subjects. The gentleman from Massachusetts says his correspondents inform him, that the public mind is agitated on this subject; if we are to judge what is the state of the public mind from what our friends say, I should be apt to think the public mind quite unconcerned on the present question, for among all my correspondents, not one has deigned to notice it.

The question was now taken on striking out, and there appeared sixteen in favor of it, and thirty-five against it; so the motion passed in the negative.

Mr. MADISON renewed the motion for making a difference in the pay of the members of the Senate, and House of Representatives, which was also lost.

Mr. GOODHUE moved to strike out twelve dollars, the pay assigned the Speaker, and insert ten.

Mr. PAGE hoped his motion would share the fate of the two last; he was certain that twelve dollars was not more than a compensation for the Speaker's services; three times the sum would not induce him to accept such a situation.

Mr. BURKE was against the motion, because he thought that twelve dollars was not a reward for the Speaker's labor. The Speaker of the House of Commons in England, has an annual salary of £8000 sterling.

Mr. CARROLL thought the Chair of the House of Representatives was one of the most important and dignified offices under the Government, and as such ought to be provided for.

This motion was lost by a great majority.

The committee rose and reported progress.

THURSDAY, August 6.

CONGRESS LIBRARY.

Mr. GERRY moved that a committee be appointed to report a catalogue of books necessary for the use of Congress, with an estimate of the expense, and the best mode of procuring them.—Ordered to lie on the table.

A message from the Senate informed the House, that they insisted on the amendment to the Treasury bill, respecting the removability of the Secretary by the President. Also, that they had agreed to the resolution of the House, for appointing a committee to report what business ought to be finished previous to the adjournment, and appointed Messrs. STRONG, ELSWORTH, and CARROLL on their part.

COMPENSATION OF MEMBERS.

The House then again went into a Committee of the whole, on the bill for allowing a compensation to the members of Congress; and af-

ter some time spent therein, the committee rose and reported the bill as amended: then the House proceeded to consider the same.

Mr. THATCHER moved to insert five dollars instead of six, as the pay of the members.

Mr. PARTRIDGE observed, that money was more valuable now than it had been some years past; if, therefore, six dollars was the average of what the delegates received heretofore, five dollars was now equal to that sum. In short, he was convinced that six dollars was too much, and in justice to his constituents, and his own conscience, he would vote against it, and perpetuate his vote by calling the yeas and nays upon the question.

Mr. GERRY.—I was not present when this subject was last before the House, therefore I cannot say what was understood on this point; but I have seen some account of the debate in the papers, from which I am led to believe, that gentlemen view this matter in a very narrow point of light. It appears to me a question, in which one's popularity is more concerned than any thing else. Gentlemen, perhaps, suppose that by voting for five instead of six dollars, they will establish such a character for economy and patriotism, as will redound to their honor; but I can easily conceive, that men of knowledge and sentiment, yes, our constituents in general, will discover, in a glaring light, the ruinous consequences of such a measure in a very short period. The difference of pay, as it now stands in the bill, and what my colleague has moved for, is one dollar a day, and on this important question the yeas and nays are to be called. For my part, I shall deliver my sentiments freely; I am willing to leave the question to the people to decide; I care not about the pay, and I can assure them I never wish to have a seat in this House again: but I wish to guard against the subversion of the public liberty—against the introduction of pensions—against exposing the Legislature to corruption.

I would have gentlemen consider the principles upon which they are to pay the President, their Judges, and themselves; the constitution says, the members of this House, and the Senate, shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. The President shall receive, at stated times, a compensation for his services, neither to be increased nor diminished; the Judges shall, at stated times, receive for their services a compensation, not to be diminished during their continuance in office; hence it appears, that the provision for the three branches is to be made on the same principle, namely, a compensation for their services. Now, though it is certainly a little embarrassing that we should have to estimate the value of our own services, yet we are bound to do it, and that upon a fixed principle. It has been said, that the Parliament of Britain receive no pay. This may be the case, but if they examine back, they will find that pay, of a mark per day, was regularly established for them. If

AUGUST 6, 1789.]

Compensation of Members.

[H. OF R.]

we consider the difference of the value of money two or three centuries ago, we shall find this no inconsiderable allowance. But the policy of the British ministry has been, of late, to extend the influence of the Crown; the pay of members has dropped into disuse; but every one knows by what means a majority in Parliament is obtained and secured. Now, such is the extent of these means, that I venture to say, two important members of the House of Commons receive more per annum than the whole compensation given to the members of both Houses of Congress. I leave it to the world to judge, whether the people are likely to be better served by men who receive their wages of the Monarch, and who own themselves the servants of the Crown, or by those who are immediately paid by and dependent upon themselves. While Britain had funds enough to support this plan, they did tolerably well; but when the evil extended itself, and they feared they could no longer continue it without having recourse to other means, they bethought themselves of unconstitutional ones; they were desirous of obtaining a revenue out of this country, and placing upon our establishment men whom they could not provide for at home. This cause lost them America, and this cause will lose them every dependency, where they attempt to play the like game.

From this view, the importance of an independent Legislature may be seen. Will gentlemen then say, that to gratify a thoughtless regard for economy, they will risk the most invaluable part of the Government? If gentlemen say it is justice to their constituents, I am willing to appeal to their tribunal; let them know the reason upon which we act, and I will abide by their determination; but I am against being influenced by an apprehension that the people will disapprove our conduct. I am not afraid of being left out, even if it were thought a disgrace to be left out. I would risk that disgrace rather than agree to an establishment which I am convinced would end in the ruin of the liberties of my fellow-citizens. It would give my heart more satisfaction to fall the victim of popular resentment, than to establish my popularity at the expense of their dearest interest.

As I mentioned before, the principle upon which we fix our own pay must go through the other branches of the Government. Your President ought to be retrenched to 16 or 18,000 dollars; your judges must be kept poor; and I leave gentlemen to consider the happy consequences arising from a dependent and corrupt Judiciary. Your Legislature may be corrupt, and your Executive aspiring; but a firm, independent Judiciary will stop the course of devastation, at least it will shield individuals from rapine and injustice; but remove this security, and tyranny and oppression will rush forward as a flood, and overwhelm the country.

It has been said, that the proposed compensation bears no proportion to the pay of the members of the State Legislatures; let me ask, do

members of the State Legislatures forego their business? Do they leave their State and relinquish their occupations? Does the lawyer neglect his client? Does the merchant forego his commerce, or the farmer his agriculture? No, sir, the short period they are in session, and the opportunity of being in the vicinity affords them of going home, even during their sitting, enables them to pursue their other avocations, while performing their duties in the Legislature. But are not gentlemen who come from the most distant parts of the Union, compelled to relinquish every thing to attend here? The representation from the States is so small, that a member can be ill spared at any time; his absence must give him pain, when even that absence is necessary, but cannot be often allowed. In short, I would have the allowance such, as to secure the services of men of abilities in every rank of life; or if that cannot be obtained, I would have all that part of the bill struck out, which relates to a compensation for the services of the members of this House.

Mr. PAGE said, if gentlemen were satisfied that five dollars per day was enough to compensate them and defray their expenses, because they resided in a part of the Union where every thing was to be procured so much cheaper, they might receive that sum and leave the residue in the Treasury; by this means they would demonstrate their love of economy and disinterestedness.

Mr. VINING thought gentlemen who were satisfied with four or five dollars, might move to amend the clause, so as to make it read "not exceeding six dollars per day," and then they might charge as much less as they deemed prudent.

Mr. BOWDITCH said, that whatever measures he supported, he did it upon principle, not from a desire of acquiring popularity; he was satisfied that six dollars per day was not extravagant compensation, but considering the situation of the country, and the delicacy of their own situation, he would vote for five dollars, and he thought it sufficient to secure men of ability. He asked the gentleman from Massachusetts (Mr. GERRY) if he expected the paltry consideration of getting a dollar a day more, was to induce men of abilities and integrity to come forward and render their country their services?

He admitted that many gentlemen would find it difficult to bear all their expenses with five dollars a day; but the compensation could not be on a principle of discrimination, and therefore the House could not make particular provision for such gentlemen. Others might think a less sum sufficient, but no discrimination could here take place; it was therefore necessary to accommodate, and upon this principle he hoped the House would agree to five dollars per day; nor would this be any variation from the principle established by the committee who reported the bill. They had taken the pay of the delegates to the late Congress, and struck an average, which was found to be about five dollars and a half; they had reported six, but from

H. OF R.]

Compensation of Members.

[AUGUST 7, 1789.]

the principles he had before mentioned, he thought it better to agree to five.

Mr. GERRY.—The gentleman from Jersey, who was last up, says he does not think six dollars per day more than sufficient; but that he will, from a principle of delicacy, vote for five. I am as great a friend to delicacy as any man, but I would not sacrifice essentials to a false delicacy. It seems, from such sentiments, as if we were afraid to administer a constitution which we are bound to administer. How are those sentiments reconcilable to the oath we have taken? The constitution requires that we shall, by law, compensate the services of the members of both Houses.

It has been said, that money is now more valuable than it was a few years since. I admit the fact, sir, but four dollars per day was better under the old plan of Government than six or eight under this, because a delegate was then engaged for the whole year, but now he is to attend at intervals. Some members were continued several years successively, and consequently found it more advantageous. But this mode of reasoning is fallacious; the question ought to be determined upon its own merits. But if gentlemen are for sacrificing justice and propriety to delicacy, or any other motive, let them come forward and agree to what I mentioned before; let them strike out all that relates to their own compensation; they are called upon by their own arguments to do this.

Mr. SEDGWICK did not rise to speak to the question, but merely to reply to some observations that have fallen from the gentlemen who opposed the present motion, particularly his colleague. The want of candor and liberality might render gentlemen unpleasant in their situation; but the consequences arising from such causes, were often still more unpleasant. His colleague had insinuated, in a pointed manner, that the gentlemen who were in favor of a reduction, were actuated by motives not only improper and unworthy of a man of character, but such as appeared base to his mind. It was said, that those who proposed this reduction, did it merely to court popularity. Whether the gentleman, his colleague, who brought forward the motion to-day, sacrificed more at that shrine than his colleague who had opposed it, he left to those to determine who noticed their conduct; but he believed they could never be charged with such meanness. For his own part, if he had sacrificed in this way, as his conduct had always been consistent with his sentiments, it must have been known, and his character would long ere this have been blasted in the manner it would have justly deserved. If he had done it heretofore, he hoped the stigma would not be affixed upon him, for a conduct founded upon the solid and substantial reasons he had advanced when the subject was last before the House.

Mr. BOUDINOT.—The gentleman from Massachusetts makes me say, that six dollars a day is not too much. I said it was not extra-

gant, but more than I thought was proper upon due consideration of the circumstances of this country. This is still my opinion, and upon it I shall ground my vote. I believe no gentleman in this House regards his popularity, when set in competition with his duty; my conduct has ever been open, and I leave the world to judge from that what are my principles. I shall therefore take no further notice of what has been said on that subject, but conclude with wishing, for the honor of the House, and the dignity of the gentlemen, that all our debates may be conducted with candor and moderation.

Mr. AMES wished the call for the yeas and nays was withdrawn; because he thought they lost their usefulness by a too frequent use. He was in favor of the motion, but he did not wish to have his name entered on the minutes on that account.

Mr. PARTRIDGE said, it was well known he never courted popularity; he never sought a seat in this House, or any other public body; but he insisted upon this right, as a member, to call for the yeas and nays, when he thought the public interest might be benefited by it; however, as the bill was not to be finished to-day, he would waive that call.

The question was taken on Mr. GOODHUE's motion, and passed in the negative, by a large majority.

The bill was ordered to be engrossed, and the House adjourned.

FRIDAY, August 7.

A petition of John White, late a commissioner for settling the accounts between the United States and the States of Pennsylvania, Delaware, and Maryland, was presented to the House and read, praying that he may receive compensation for his services in that character, which, from public considerations, he was induced to render beyond the time limited by an ordinance of the late Congress.

Ordered, That the said petition be referred to Messrs. SENEY, VINING, and HEISTER, that they do examine the matter thereof, and report the same with their opinion thereupon to the House.

On motion,

Ordered, That a committee be appointed, to bring in a bill or bills, for the further encouragement of the commerce and navigation of the United States.

And a committee was appointed, consisting of Messrs. GERRY, TRUMBULL, and BURKE.

The following message was received from the President of the United States, by General Knox, who delivered therewith sundry statements and papers relating to same:

Gentlemen of the House of Representatives,

The business which has been under the consideration of Congress has been of so much importance, that I was unwilling to draw their attention from it to any other subject; but the disputes which exist be-

AUGUST 7, 1789.]

Compensation of Members.

H. OF R.

tween some of the United States, and several powerful tribes of Indians within the limits of the Union, and the hostilities which have in several instances been committed on the frontiers, seem to require the immediate interposition of the General Government.

I have therefore directed the several statements and papers, which have been submitted to me on this subject by General Knox, to be laid before you, for your information.

While the measures of the Government ought to be calculated to protect its citizens from all injury and violence, a due regard should be extended to those Indian tribes whose happiness, in the course of events, so materially depends on the national justice and humanity of the United States.

If it should be the judgment of Congress, that it would be most expedient to terminate all differences in the Southern district, and to lay the foundation for future confidence, by an amicable treaty with the Indian tribes in that quarter, I think it proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion.

How far such a measure, unassisted by posts, would be competent to the establishment and preservation of peace and tranquillity on the frontiers, is also a matter which merits your serious consideration.

Along with this subject, I am induced to suggest another, with the national importance and necessity of which I am deeply impressed—I mean some uniform and effective system for the militia of the United States. It is unnecessary to offer arguments in recommendation of a measure on which the honor, safety, and well-being of our country so evidently and so essentially depend.

But it may not be amiss to observe, that I am particularly anxious it should receive as early attention as circumstances will admit; because it is now in our power to avail ourselves of the military knowledge disseminated throughout the several States, by means of the many well instructed officers and soldiers of the late army; a resource which is daily diminishing by deaths and other causes.

To suffer this peculiar advantage to pass away unimproved, would be to neglect an opportunity which will never again occur, unless unfortunately we should again be involved in a long and arduous war.

GEORGE WASHINGTON.

NEW YORK, August 7, 1789.

On motion,

Ordered, That the said message, with the statement and papers accompanying the same, be committed to the consideration of a Committee of the whole House on the state of the Union.

A petition of David Greenleaf was presented to the House and read, praying that an exclusive privilege may be granted him, to construct and build mills within the United States, upon the principles of an invention which he has discovered for turning them by the help of a weight that is appended.

Ordered, That the said petition do lie on the table.

COMPENSATION OF MEMBERS.

The engrossed bill for allowing a compensation to the members of both Houses and their officers, was read a third time; when,

Mr. SEDGWICK begged permission to trouble the House once more on the subject. He entertained a real apprehension, that if the bill became a law in its present form, it would have an inauspicious influence on the reputation of Government, and therefore he was desirous of bringing it to a greater degree of conformity with the opinion of the people of the United States; and gentlemen, in order to remove every ground of jealousy, would, no doubt, admit that opinion ought to be respected, when it was properly declared.

In order to ascertain the opinion of the people of America, as to what will be a proper compensation to their servants employed in administering the constitution they had adopted, he was led to inquire what were the wages they gave to their officers in their respective States, and he found that they bore no proportion to what are contemplated in this bill. The Governor of New Hampshire, served for two hundred or three hundred pounds per annum; the Governor of Massachusetts eight hundred pounds; the Chief Justice of the same State, but three hundred and seventy-five pounds; and the other judges, three hundred and fifty pounds. With regard to their abilities and integrity, he believed they were of the first rank; at least, he never knew a want of the best characters to fill those offices for such compensations. What then was he to think of seven hundred and thirty dollars per annum being given to the door-keeper? What would the public think? Or will they be unable to draw an inference? If they are not, they will conceive we are running into a profusion of expense beyond their expectation, and such as they are unable to bear. For these reasons, he wished the House would consent to re-commit the bill. He did not insist upon going over the provision respecting the compensation to the members, but he wanted to correct the bill in some other respects.

Mr. LIVERMORE seconded the motion, and assigned, as an additional reason, that a constitutional question arose out of its present form. The officers of the House would be established by law, if their compensation was affixed in that way; now, how far the President would be entitled to appoint such officers, was not a point which was clear. He thought there was some ambiguity in the case, and wished to avoid it by striking out that part of the bill; indeed, he had thought it wrong to authorize this, as the House had done some time ago by their vote of instructions to the committee. He had never seen an instance where the pay of a door-keeper or messenger was provided for by law; they originally brought in their accounts, and were paid as a part of the contingent charges. He submitted if it would not be better to establish the inferior officers upon this footing.

H. of R.]

Compensation of Members.

[AUGUST 10, 1789.]

Mr. PAGE said, the bill had gone through the usual forms; that more discussion had already taken place than was consistent with order. If gentlemen were to treat every subject in this circumlocutory manner, it would be true that five dollars a day would give more than six, for the session would be considerably drawn out. He was no enemy to debate, but it ought to take place at a proper time. The bill was now engrossed, and gentlemen ought to have come forward with their objections yesterday, if they had designed so strenuous an opposition, and not sacrifice any more of the time of the House, especially as the bill had been sanctioned by a numerous and respectable majority.

Mr. AMES understood the motion to go no further than to alter some parts of the bill which had not been before canvassed. He always submitted to a fair majority, and though he wished the pay of the members less, and was sure it would be a happy circumstance to the administration of the Government, yet he did not desire to reiterate the question on that point. He wished to tell his constituents that the House acted upon principle in making their allowances; but while the bill stood as it did, it would contradict every one which gentlemen had advocated. He would join in the re-commitment, in order to make every part of the bill consistent.

Mr. BOUDINOT joined in the re-commitment, observing that seven hundred and thirty dollars a year, was not proportioned to the principle established. This is a large salary, but gentlemen do not argue that it is necessary, in order to command men of science and abilities; a less sum would procure the best abilities in this line, that were to be obtained in the United States. Gentlemen ought to remember what they allowed a principal clerk in the department for settling the accounts between the United States and individual States, an office of very considerable importance, whether we regard the abilities to fill it, or the trust and responsibility of the officer. The present Treasurer of the Union receives one thousand two hundred and fifty dollars; the door-keeper of this House seven hundred and fifty dollars. Is there any comparison in the importance of the offices?

Mr. LEE was against reconsidering, because the House would consume more time in the discussion than the door-keeper's salary was worth; besides, the door-keeper has to pay laborers and assistants out of this money, which may take half of his allowance.

Mr. LIVERMORE promised, if gentlemen would suffer the bill to be recommitted, it should never draw a word more from him.

Mr. STONE thought there would be little objection to the amendment talked of; and if gentlemen would exercise a little good humor and patience, the time would not be long before the bill would get through, and the House would enter upon more important business.

The question being taken on the re-commit-

ment, it was agreed to, and the committee struck out the door-keeper's salary, and allowed him and his laborers three dollars per day during the session; after which they rose and reported the bill as amended; whereupon the House having agreed to the same, it was ordered to be again engrossed.

SATURDAY, August 8.

A message from the Senate informed the House, that they had agreed to the resolutions sent to them the 27th ultimo, establishing joint rules between the two Houses for the enrolment of the acts of Congress, and to regulate the mode of presenting addresses to the President.

The message from the President, with the papers accompanying the same, received yesterday, was called for, when a desultory conversation arose respecting the propriety of shutting the gallery doors, inasmuch as it was probable the statements and papers referred to in the message might contain matters requiring to be kept secret. After the question had been agitated some time, the gallery doors were shut.

The House then resolved itself into a Committee of the whole on the state of the Union, and came to the following resolutions:

Resolved, That it is the opinion of this committee that an act ought to pass providing for the necessary expenses attending any negotiations or treaties which may be held with the Indian tribes, or attending the appointment of commissioners for those purposes.

Resolved, That it is the opinion of this committee that an act ought to pass providing a proper system of regulations for the militia of the United States.

Ordered, That a bill or bills be brought in, pursuant to the first resolution, and that Mr. CLYMER, Mr. AMES, and Mr. MOORE, do prepare and bring in the same.

Ordered, That a bill or bills be brought in, pursuant to the second resolution, and that Mr. SUMTER, Mr. HEISTER, and Mr. MATTHEWS, do prepare and bring in the same.

MONDAY, August 10.

The petition of John McPherson was presented to the House, and read, praying that an exclusive privilege may be granted him for a term of years, to make and vend lightning rods upon an improved construction; also, conductors and umbrellas, upon a model which he has invented, making them certain preservatives from lightning.

Ordered, That the said petition do lie on the table.

The engrossed bill for allowing a compensation to the members of the Senate and House of Representatives, and their officers, was read a third time; and on the question shall this bill pass,

The yeas and nays were required by Mr. GOODHUE.

Mr. GILMAN seconded the motion.

Mr. PAGE wished, since gentlemen were determined on calling the yeas and nays, that they

AUGUST 11, 1789.]

Indian Treaties.

[H. OF R.]

could be called on the clauses separately, because he was against that part which did not admit of a discrimination between the members of the Senate and of the House.

Mr. GERRY thought the bill defective, because it was not general, providing for the pay of all the officers of the Government at once.

Mr. STONE hoped that gentlemen would not vote against the bill for such reasons as they had assigned, after the great labor it had taken to get it through.

One-fifth of the members present demanding the yeas and nays, they were taken, and are,

YEAS.—Messrs. Baldwin, Benson, Brown, Burke, Carroll, Clymer, Fitzsimons, Gale, Griffin, Hartley, Heister, Huntington, Lawrence, Lee, Madison, Matthews, Moore, Muhlenberg, Page, Scott, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sturgis, Sumter, Trumbull, Tucker, Vining, and Wadsworth.—30.

NAYS.—Messrs. Ames, Boudinot, Cadwalader, Floyd, Gerry, Gilman, Goodhue, Grout, Hathorn, Leonard, Livermore, Partridge, Van Rensselaer, Sedgwick, Sylvester, and Thatcher.—16.

So the bill passed in the affirmative, and the Clerk was directed to deliver the same to the Senate.

The House proceeded to consider the message sent from the Senate on the 5th inst. insisting on so much of their eighth amendment to the bill entitled "An act to establish the Treasury department," as was disagreed to by the House; whereupon,

Resolved, That a conference be desired with the Senate on the subject-matter of the said eighth amendment, and that Mr. MADISON, Mr. FITZSIMONS, and Mr. BOUDINOT, be appointed managers of the same, on the part of this House.

The following message was received from the President of the United States, by General Knox, who delivered in the same, together with a statement of the troops in the service of the United States:

Gentlemen of the House of Representatives:

I have directed a statement of the troops in the service of the United States to be laid before you for your information.

These troops were raised by virtue of the resolves of Congress of the 20th of October, 1786, and the 3d of October, 1787, in order to protect the frontiers from the depredations of the hostile Indians, to prevent all intrusions on the public lands, and to facilitate the surveying and selling of the same, for the purpose of reducing the public debt.

As these important objects continue to require the aid of the troops, it is necessary that the establishment thereof should, in all respects, be conformed by law to the constitution of the United States.

GEORGE WASHINGTON.

NEW YORK, August 10, 1789.

Ordered, That the said message, with the statement accompanying the same, do lie on the table.

A message from the Senate informed the House that they agree to the proposed conference

on the subject-matter of so much of their eighth amendment to the bill entitled "An act to establish the Treasury department," as was disagreed to by this House, and have appointed managers of the said conference on their part.

The House proceeded to consider the report of the committee on the memorial of Andrew Ellicott, which lay on the table; and the same being amended to read as follows:

That the survey directed by Congress, in their act of June the sixth, one thousand seven hundred and eighty-eight, be made and returned to the Secretary of the Treasury without delay; and that the President of the United States be requested to appoint a fit person to complete the same, who shall be allowed five dollars per day, whilst actually employed in the said service, with the expenses necessarily attending the execution thereof.

Resolved, That this House doth agree to the said report.

Mr. CLYMER, from the committee appointed for the purpose, presented a bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, which was received and read the first time.

Adjourned.

TUESDAY, August 11.

Mr. WADSWORTH, from the committee appointed to confer with a committee of the Senate, to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place, made a report, which was read, and ordered to lie on the table.

INDIAN TREATIES.

The House then resolved itself into a Committee of the whole on the bill for providing for the expenses of Indian treaties.

It was directed in the said bill that commissioners, not exceeding three, should be appointed and allowed compensation.

Mr. SEDGWICK moved to strike out that part of the clause restraining the number of commissioners to three. He thought it a dangerous doctrine to be established, that the House had any authority to interfere in the management of treaties. He believed the moment any branch of the Government undertook to claim the exercise of powers not delegated by the constitution, that moment the people of America would have reason to be alarmed for their safety. If there was any authority given the House by the constitution to determine any thing with regard to treaties, it had escaped his attention. He hoped the gentleman who favored this clause of the bill would point it out to him. If the power here assumed was not given by that instrument, he would ask gentlemen where they meant to stop. Will not the recognition of such a principle in practice, tend to determine that the powers of this branch extended to all cases incident to legislative authority, notwithstanding

H. of R.]

Indian Treaties.

[August 11, 1789.]

the restrictory clauses of the *magna charta*? Those with respect to treaties may be construed to allude to treaties of commerce only; that, as they have the privilege of declaring war, they have a natural right to inquire into the principles and reasons upon which their declarations are founded. This, it may be supposed, cannot be exercised without having some connexion with the other branch of the Government in forming treaties. In this way, the House may usurp a power destructive of the balance of the three branches, and which the people never intended they should exercise.

From the words of the constitution, he thought the President had a right to make all treaties whatever, under the check of the Senate. How far those treaties would be obligatory if they contravened an existing law, might be a matter of doubt. He knew the Executive authority in England possessed the power of destroying a legislative act by the terms of a treaty; but whether the President had a similar power was questioned by some gentleman of great information; yet no one ever doubted but the President, by and with the advice and consent of the Senate, could employ what and as many negotiators as he pleased. This being the fair inference from the constitution, he hoped the House would strike out the words that were calculated to limit him in a case beyond the authority of the Legislature.

Mr. STONE agreed with the honorable gentleman, that it was proper for each branch to confine themselves to the administration of their respective powers. He hoped neither would attempt to go beyond the authority vested in them by the constitution; nor would he have them relinquish any part, because one must rise as the other falls, and in either case it might subvert the Government. But he did not see how the constitution was concerned in the present question. There was no doubt entertained that the President, with the Senate, might appoint the commissioners, and empower them to negotiate. They might have done all this without consulting the House; but there can be no doubt, on the other side, but the House have a right to give an opinion on the subject, either before or after the treaty is ratified. He saw no difficulty in the business; the present appeared to him to be a simple case. The President knows we are to grant him money to carry his good intentions into effect, and we may grant this money on what terms we judge proper. Now, in order to keep up a good understanding, he has suggested to us the consideration of the expediency of instituting a temporary commission for the purpose of treating with the Indians, to consist of three persons. Why, when he has offered them to our consideration, should we quibble about the expediency, and refuse to insert it, without a single reason being adduced to show its impropriety?

Mr. PAGE admitted, that the President and Senate were the proper bodies to make treaties, but the House had a right to say what money

should be expended in this way. They had a right to say whether they would grant any or not; otherwise the President and Senate might do as they pleased with respect to negotiations, and call upon the House in all cases to defray their expense.

He remarked, that the clause in the constitution gave the President, provided two-thirds of the Senate agreed, the power of making treaties, but it did not say all treaties. He therefore hoped the House would reserve the power of declaring what treaties were necessary, by making provision accordingly.

Mr. FICKER thought the words of the constitution not so extensive as they appeared to some gentlemen to be, and he drew this opinion from that part which authorized the President and Senate to appoint officers. This power was unquestionably vested in them by the constitution; but it was inactive unless the offices were first established by law. Now, from this view of the circumstance, he inferred that the Legislature had the power of establishing the office of commissioners, and determining the number.

I have full confidence, said he, in the President; he has given us such an example of moderation, as ought to remove every apprehension of an improper exercise of any power whatsoever. I have good reason to believe, that the Senate are as careful in guarding and securing the general welfare, as we are.

These circumstances are very flattering and agreeable, but they will not induce me to give up any part of the constitutional powers of this House. I am sorry that the phraseology of our vote of Saturday on this subject, seems to countenance such an idea. I wish an alteration had taken place; and I am still persuaded, that unless it is contradicted, it will have an unhappy effect upon the administration of the Government. We are called upon by the message from the President, to consider whether it will be most expedient to terminate all differences in the Southern district, by an amicable treaty with the Indian tribes in that quarter, and to consider of the expediency of instituting a Board of Commissioners for that purpose. What then have we to do with providing money until the first point is determined?

No doubt but the President and Senate have the authority to appoint ambassadors, or other public ministers; but they will certainly not appoint an officer without a legal establishment of the office. I conceive it to be indispensably necessary, that the Legislature should institute the office before the Executive power proceeds to making the appointment, otherwise the President and Senate might create, as well as fill offices, and thereby run the Union to such expenses as would be inconvenient, if not ruinous.

I am further of opinion, that by heaping up power on the President, and striking out business for him daily, we shall so embarrass him, as to render him unable to execute his constitutional duties. Suppose the Senate should in

AUGUST 11, 1789.]

Indian Treaties.

[H. OF R.]

like manner surrender up their powers; what is to become of the Government?

Another consideration presents itself to my mind. If these commissioners are not instituted by law, they may perhaps be considered as a part of the power necessary to make treaties; in which case two-thirds of the Senate will be as necessary to their appointment, as to any other part of the business, because the constitution gives the President the power of making treaties, by and with the advice and consent of two-thirds of the Senate; but if we say, as the President has requested, that there shall be three commissioners appointed to treat with the Indians, he will be able to make the appointment with the consent of a majority of the Senate; consequently the business may be conducted with greater facility.

I know it may be observed, that the President has exercised the right without its being disputed. The appointment of Mr. Short, as chargé des affaires in the absence of Mr. Jefferson, our minister at the court of Versailles, may be supposed to be of a like nature; but I do not view this transaction in the same point of light. The Executive in this case did not create the office, for the time of Mr. Jefferson's appointment had not expired; the minister only solicited leave of absence, and it is a constitutional power in the President to fill up offices during the recess of the Senate; so that the case does not apply.

In short, the ground of the present business is the message of the President; by it, we are not called upon to consider of the expediency of instituting a Board of Commissioners to treat with the Indians; we are not required to provide money; consequently we ought to confine ourselves to such inquiry, and if we deem it expedient, we ought to concur with him.

Mr. SMITH said, that the gentleman's argument did not apply, because it was not contended but, by the constitution, the President and Senate had power to form treaties with foreign nations. Now, if they have this power, it lies with them to carry it into effect in what manner they shall deem meet; it is not a subject of legislative inquiry, whether it is done by persons sent into the country, or by a correspondence with a foreign court; the right is still the same, and we are not to make the election.

He would ask those gentlemen, what was to be done, supposing the States were at war with a nation from whom overtures of peace were received? Suppose it was absolutely necessary during the next recess of Congress to send a minister, or an envoy, to the Dey of Algiers; would it be proper to delay so necessary a business, until this House could be convened? They would hardly be so regardless of the public interest as to require it, especially if the constitution had not made it absolutely necessary.

The honorable gentleman from Virginia (Mr. PAGE) endeavored to draw a distinction, which cannot be warranted on any pretence whatsoever; a distinction between treaties of com-

merce and treaties of peace, that the President and Senate might form the one and not the other.

Mr. PAGE said, that he conceived the House had a concurrent jurisdiction in the formation of treaties, by the exercise of their constitutional powers, necessary to give them efficacy.

Mr. SMITH would be glad if the honorable gentleman would point out the part of the constitution that shows we have any such power. I believe it cannot be shown, nor was it ever contemplated by any person, that the Legislature had such a control. I know it has been debated in some of the State conventions, whether it is proper to let the President and Senate have this power. Some have thought the President ought to have it exclusively, others have judged it most eligible that the Senate is associated with him; but I never heard that any one thought the Legislature should have concurrent jurisdiction with them. It is admitted by all republicans, as an essential principle in a free Government, that the executive and legislative powers should be kept distinct; how then it could be blended in the formation of treaties, so as to produce sufficient good to counterbalance the evil, I am at a loss to conceive. There is good ground for complaint in having the Senate connected with the President in the performance of this duty; but the evil would be increased by giving this House any control in the business.

If the House can limit the President to three commissioners, and more may be found necessary, then the President cannot appoint them without infringing the powers of the House; by this means, the object in contemplation may be defeated, and we have committed a waste of our time and the public treasure.

Mr. SUMNER.—I apprehend that the debate would be very much shortened, if it turned upon the principal point that we ought to consider. If we had estimates before us, and were able to determine the sum necessary to carry into execution the object which the President has in contemplation, we might so confine the power of the Executive, as to leave us wholly free from any apprehensions of a possible impropriety in his conduct. If the sum was so limited as to enable him barely to defray the expense of a treaty, conducted by three commissioners, there could be no danger in the precedent. I think it perfectly parliamentary that the supply should be first voted, and it would certainly tend to remove the embarrassments under which we now labor.

As to what has been said, with respect to the power of the President making treaties of peace and commerce, I have only to observe, that the present case involves both; but I think we ought to confine ourselves at present merely to provide the sums necessary to enable the commissioners to conclude a treaty with the Creek Indians; for I believe that they are the only nation with which the State of Georgia is at war. If gentlemen will confine themselves to this point, and we have the proper estimate be-

H. of R.]

Indian Treaties.

[AUGUST 11, 1789.]

fore us, we shall be able to make more progress in the business.

Mr. BALDWIN did not consider the temporary institution of three commissioners to be any thing like the establishment of an office. If the President had contemplated it in that light, it is probable that he would have thought proper to have created Superintendents for Indian Affairs; he did not conceive the present object was the establishment of a system for conducting the Indian Department; but a mere temporary expedient, from which might be gained sufficient information to make a better future arrangement; and this he inferred from the manner in which the subject was introduced, by the message from the President.

Mr. GERRY said, that his opinion conformed with that of the gentleman last up; he was very well satisfied, that the President did not want the Legislature to form a system for carrying on Indian treaties, which were always a source, in the manner they were usually conducted, of a perpetual warfare.

He did not know what occasion there was for striking out the number of commissioners from the clause, when the President had requested that that number only might be appointed.

Mr. JACKSON felt himself not much concerned with respect to the question of striking out, because it was a matter of indifference, whether Congress made a general or particular regulation for carrying into effect the good intentions of the President. But he wished to be indulged in bringing forward a clause, that should point out the intentions of Congress. He had mentioned this subject to the committee on Saturday last, and he conceived it now to be his indispensable duty to step forth, and call for and demand that protection and support which the Union is compelled, by the articles of the constitution, to give to a sister State, who is unjustly injured by a neighboring foe. He thought the step recommended in the bill to be taken would be ineffectual, unless it was supported by the arm of the United States. The President, in his message, had submitted this very point, in some degree, for the serious consideration of the House; consequently there could be no impropriety in introducing it into the present bill.

The deplorable situation of the defenceless and plundered inhabitants of the State of Georgia, requires the exertion of the federal powers; and the fourth section of the fourth article of the constitution obliges us, as we value the preservation of the public faith, to step forward in their behalf. The United States are to protect each other against invasion. If an invasion was only apprehended, the General Government are bound to exert themselves to ward off the blow; but we call not for those exertions on mere surmise. Georgia has been invaded; the fact is absolute and notorious. She has attempted to treat with her invaders. Three States have appointed commissioners with powers to meet and

accommodate their differences. One of those commissioners is now upon this floor. Those commissioners, desirous of removing the distress of the inhabitants of the frontiers, sent a friendly talk to the chief of the Creek nation; they requested to know of him when it would be convenient and agreeable for him to attend a meeting for the purpose of restoring peace and security to both nations.

Mr. M'Gillvary did not deign to answer them, and neglected to meet them. The State commissioners were treated with contempt, though he condescended to write to private individuals; but in those letters he endeavored to hold up the State of Georgia in a ridiculous point of light. He threatened that if she was left to herself, he could soon bring her to reason.

This same man, this half-breed chief, has dared to treat even the United States with indignity! Notwithstanding he knew that, by the constitution, the cause of an invaded State was the cause of the Union, he has had the temerity to attack the defenceless inhabitants, and committed depredations beyond any thing heretofore known; he has ravaged the country, spreading devastation around him. He has not confined himself to plundering the citizens of Georgia of their property; he has burnt up their dwellings, and torn up settlements by the roots; he has murdered the offspring before the mother's face, while the heart-broken matron has only been permitted to survive the horrid scene, for the sake of gratifying their more than infernal malice. Here I may be asked, what had Georgia done to rouse this malignant spirit? Georgia has done nothing but what she can fully justify. But this is not a question for our present inquiry; our business is to stop the progress of so alarming an evil. Georgia has not shown a disposition to embroil the Union. She declined raising that force which would have brought M'Gillvary to reason, out of deference to her sister States. She knew that to this honorable and respectable body belonged the right of declaring war, and of applying force. She looked forward with eagerness to that period, when the arm of the Union would be raised in her defence. She knew she was entitled to this assistance, in virtue of the most solemn compact. She bore with resignation the disappointments she met with in her applications on this head, to the former Congress. With patience she waited for justice from those with whom her valiant bands had been leagued; with whom she had fought and conquered in the cause of liberty and safety; but that patience has been nearly exhausted. Think of men worn down with fatigue, harassed with perpetual exertions, their little all wasted and destroyed, and themselves banished from that country where their fathers were born and bred! These things, Mr. Chairman, are melancholy facts. The citizens of near half our lower country are exiled. Last summer they did infinite mischief, and, by the last reports, we learn there were three thousand Indians in arms, ready to bear down upon that territory.

AUGUST 11, 1789.]

Indian Treaties.

[H. OF R.]

and to destroy the remainder. They are only restrained by the circumstance of our sitting, and apprehending they will be punished for such violence. If nothing is now done, what are we to expect from that quarter?

I call upon the justice of this House; where else are the Georgians to look for redress? Shall they look to foreigners for support and protection? The very idea of such a measure ought not to be contemplated; yet the truth is irresistible, and I must tell you, sir, they must procure protection here or elsewhere. In full confidence that a good, complete, and efficient Government would succor and relieve them, they were led to an early and unanimous adoption of the constitution under which we deliberate. Obedience and protection are reciprocal. Will the wisdom of the House, then, teach them to withhold such just and well-grounded expectations? I trust not. They will see the importance of the object too clearly to neglect it. But, sir, we do little else than neglect it, when we talk of restoring them to peace and security by sending up commissioners. Paper negotiations they are taught to despise; nothing but an armed force can restrain them. The strength of the Union may keep them in awe; but Congress must show a disposition to exert it, before they will listen to terms of accommodation. M^r Gillvary will be soon acquainted with our determination, and, according to its nature, he will regulate his conduct. This chief has his emissaries in Georgia and the Carolinas; he may have them, for aught I know, in this very city. If he learns that there is a timid disposition in this body; that they are supine and unwilling to make an exertion, which he cannot but dread, then will he be encouraged to return with his barbarians, to the total ruin of the State. Let us then prevent him; let our humanity, let our sacred faith, lead us to pursue such measures as will save a sister State from the future horrors of an Indian war. I am not against sending up commissioners, but let them present to him for his choice, the sword or the olive branch; if he declines to receive the latter, let him be assured he will feel the keen edge of the former, and perhaps his prudence may induce him to treat on better terms.

With this view, Mr. JACKSON proposed to add a clause to the bill, to the following effect: "That in case of the refusal of the Creek Indians to treat, or on treaty to agree to such articles and terms as to the commissioners to be appointed shall appear necessary and just, the President of the United States shall be, and he is hereby authorized to raise, or cause to be raised, such number of troops, on the pay and establishment of the United States, or to call forth and embody such proportion of the militia of the States of South Carolina and Georgia, as will secure and protect, by such proper posts as he may think necessary, the inhabitants of the State of Georgia from the invasion and further inroads of the Creek Indians: Provided, the whole number of men so to be raised on the es-

tablishment of the United States shall not exceed —, nor be continued for a longer term than —: And provided, also, that the whole body of the militia so to be called forth and embodied, shall not exceed —; nor shall any one person be obliged to serve more than —. And the said militia, when in actual service, shall be entitled to the pay and emoluments of the troops of the United States."

The question was taken on striking out the words, "that commissioners, not exceeding three," and it passed in the affirmative.

Mr. FITZSIMONS thought the motion made by the gentleman from Georgia (Mr. JACKSON) had better lie over until to-morrow, and then, if the idea was adopted by the House, it could become the foundation of a separate bill, as it appeared to be a distinct subject. He conceived the business would be more expedited in this way than any other; he would therefore move the committee to rise.

Mr. PAGE hoped the committee would not rise before they adopted the clause. In his opinion it was the most important part of the whole, and he feared, unless it was added, that the whole expense of holding the treaty would be thrown away.

Mr. SUMNER did not rise to oppose the clause, but he wished it might lie over till to-morrow. He confessed there were some words in it that did not meet his approbation. Though he was willing to go as far as any gentleman to restore tranquillity to the State of Georgia, yet he should be sorry to have it thought that it was impossible to conclude a treaty with the Indians, without enforcing it by employing a large armed force to go up into the country.

Mr. MADISON.—I concur with the gentleman from Georgia, that protection is clearly due by the Union to every State which is found to pay obedience to its authority; but I would submit to his consideration, whether it would not be better to let the bill pass as it now is, in consequence of which the President could early set on foot the proper measures for attempting their relief; while the object of his motion may be better connected with the subsequent message received from the President relative to the troops already raised to protect the frontiers from the depredations of the hostile Indians. By the constitution, the President has the power of employing these troops in the protection of those parts which he thinks requires them most. Besides this circumstance, there is a committee already appointed to bring in a bill for regulating the militia, and this anticipates the latter part of the motion, or at least it can have no effect until the militia are defined and arranged.

I am inclined to think that some measures like those proposed may be very proper; but I do not conceive that they ought to be incorporated into the present bill; nor can it be proper to give an indefinite power to the Executive to raise troops.

Mr. JACKSON said, it would have a good effect if the clause could be introduced into this bill,

H. OF R.]

Indian Treaties.

[August 12, 1789.]

because the whole subject would be viewed together; but he was willing to amend it in such a manner as to remove the gentleman's objections.

A desultory conversation arose, and some alterations of the clause were proposed; when at length Mr. JACKSON withdrew it, in order to correct it and bring it before the House.

The committee then rose and reported, that they had, according to order, had the said bill under consideration, and gone through the same, and made amendments thereto; the bill with amendments being twice read, were agreed to by the House, and the bill was ordered to be engrossed.

On motion, it was ordered, that the message from the President of the United States, by General Knox, of the 10th instant, with the statement accompanying the same, be referred to the consideration of a Committee of the whole House on the state of the Union. The motion proposed by Mr. JACKSON in the committee, as an amendment to the bill providing for the expenses attending the negotiations with the Indians, was also referred to the same committee; after which, the House adjourned.

WEDNESDAY, August 12.

INDIAN TREATIES.

The engrossed bill providing for the expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, was read the third time; when it was moved to fill the first blank therein with 41,000 dollars.

Mr. SUMTER observed, that they had no data to govern them in making the provision; consequently, gentlemen were to judge from their own opinions what would be a proper sum. He thought that proposed was much beyond what there was occasion for. If he were to mention a sum, he would name 16,000 dollars as sufficient to complete the business, because he did not conceive it absolutely necessary to purchase a treaty. The Creek Indians, notwithstanding their depredations, he believed were willing to treat upon more honorable and equal terms. He had been informed, that they were disposed to an accommodation, and he hoped it might be brought about without so heavy an expense. He believed they were inclined to preserve the peace of their neighbors.

Mr. JACKSON would be as careful of the public money as any gentleman within these walls, but he did not conceive 41,000 dollars too much. The honorable gentleman from South Carolina should recollect, that the bill was not limited to a particular treaty; it made a general provision for negotiating with the Indians on the frontiers, and within the limits of the Union; consequently it might be applied to quiet the disturbances of the Northern as well as the Southern Indians.

The honorable gentleman has heard that the Creeks are desirous of peace. No doubt he

has had such information; but I never understood they had a wish of the kind. On the contrary, I know that our country has been for a long time past, and is still, exposed to all the horrors of a savage and brutal war. This is not private information, but the official communication from the Secretary at War. M'Gillvary, in his letters to individuals, has said, "leave the Georgians to their fate, and we will teach them reason." Are these indications of a peaceful disposition? Are these signs of an approaching treaty? Can it be supposed that a half-breed savage has more humanity than the civilized citizens of Georgia?

It may be easy for men who, with their families, are secure from being plundered and butchered, whose wives and daughters are not exposed to the brutal ravisher, to reason upon and contemplate distant evils with a stoical indifference; they see through a medium that deceives and varnishes over the most horrid distortion of human nature. Were they like me, acquainted with the desolation of my country, the wretchedness of my fellow-citizens, and the deep distress occasioned by the murder, or worse than murder, of their dearest relatives, they would feel, and their arms would hurl vengeance like vivid lightning upon the cause of such misfortunes. Could they see the distressed and disconsolate mother, sitting amidst the ruin of her fortune, with her children torn from her bosom, her daughters led into captivity by barbarians, who regard not law human or divine—could they, in a word, have seen (but the thought almost unmanly me) Mrs. M'Cormick, a worthy and venerable matron, lamenting over a daughter compelled to submit to the lustful embrace of an Indian, they would be roused with indignation, and think the public money well bestowed in revenging or preventing such disorders.

He concluded with begging pardon of the House if he had been hurried away too far, and insinuated any thing to hurt the feelings of any man; but really he was so possessed with the subject, that he could hardly restrain himself to the bounds which he had prescribed to himself on every occasion; but he was too well convinced of the candor and judgment of the House, to doubt their doing justice to his country.

Mr. SUMTER said, that he was convinced nothing could drop from the honorable gentlemen last up that would give offence, but what he would atone for as soon as he was sensible of it; but he thought the gentleman had suffered himself to be too much affected by the situation of his country to apply his arguments to the reason of his hearers. On this occasion he had certainly addressed the passions more than the judgment. He believed what the gentleman had mentioned were generally facts, but certainly those who knew the Indians and their manner of warfare, would allow that they seldom or never attempted the chastity of the female sex; he knew the torments to which their unhappy prisoners were exposed, but this offence was not among the number.

AUGUST 12, 1789.]

Indian Treaties.

[H. OF R.]

As to the sum proposed to be inserted, it was certainly too great, because it was not in contemplation to treat with any other than the Creek Indians; the official communication on the table only alluded to them; but if the Wabash nation was included, it was certainly too much.

He had not been indifferent to the sufferings of Georgia, but he believed the disposition of the Indians to be friendly, because they had not taken the advantage they had in their power of extending their depredations. A body of 1300 of them had been within 50 miles of the capital, and nothing could have prevented them from laying it in ashes, if they had been so inclined. What saved the Georgians at that time but the humanity of their enemy?

Let McGillvary know that he is not to be trifled with, and he will willingly treat; but if commissioners were sent without power to settle the point in difference, how can he be expected to listen? With respect to the commissioners sent on a former occasion, whom he declined to meet, the term of their appointment had expired, which he very well knew; and how can he be blamed for not noticing them more than other individuals, unless we are inclined to treat his judgment with contempt?

There can be no doubt but the supreme authority of the Union, clothed under the new constitution, with ample powers, will be attended to with deference; these are the sentiments of the chief himself, from which I infer that a treaty may be easily concluded with him. The facts already mentioned, prove that he is disposed for peace; where then is the necessity of running into the expense of purchasing a treaty?

MR. JACKSON said, it was neither the courage of M'Gillvary nor the cowardice of the Georgians that had occasioned their misfortunes; it was the deference they paid to the articles of confederation. They did not choose, by a breach of these, to draw upon themselves the resentment of the Union, otherwise they could have carried the war into the Indian country, and annihilated the Creek nations. He apprehended, when Georgia could raise 15,000 men, 6,000 of the Creek Indians were not sufficient to oppose them.

I am sorry that gentlemen should oppose a measure which I know to be essential to the peace and security of that State. Is it a time to talk of tranquillity and humanity, when 70 miles of our old settled country is laid waste, when we are invaded and overrun by a ferocious enemy? Do gentlemen mean that the State shall be destroyed, while they refuse to comply with the most sacred stipulations? The Union is to protect each State from invasion; Georgia is invaded, and requires that protection. She sacredly adheres to her part of the contract; she does nothing more than act on the defensive; she does not engage in war, though actually invaded, and in such imminent danger as will hardly admit of delay. Was it for this she adopted this constitution? Where is the bene-

fit of it to her? The honorable gentleman said I addressed the passions; where is the man, knowing and feeling as I do, but would be irritated? A man must be lost to every sentiment of patriotism, and buried in apathy, that can be insensible to his country's wrongs. Georgia cannot any longer remain inactive; if she receives no succor from this quarter, she must apply to some other—she must exert herself to oppose her invader, and there beats not a bosom but will be roused to vengeance. I declare this publicly: my arm shall be lifted on the occasion; we must, if too weak ourselves to accomplish the object, league with the arms of Spain or Britain. It is in vain to delay; it is vain to think paper or parchment will restore them to quiet; nothing but an exertion of force can be our remedy. We are told of the dangerous situation of the Western Territory; can this be compared to that of Georgia, when her citizens are driven to despair?

I will not urge any thing further at present, but beg gentlemen to consider that the money they grant now, is intended as a general provision; 16,000 dollars might be sufficient perhaps for a single treaty, but 41,000 may be necessarily expended on so extensive an undertaking as holding treaties with all Indian nations between whom and the United States there is any dispute.

MR. SUMTER was desirous of accommodating the difference between the Creek nation and Georgia, but he was not inclined to squander so large a sum as 41,000 dollars in a treaty, when he was well convinced, in his own mind, that half the sum would be sufficient, and no estimate was produced to show that a greater sum was requisite.

MR. BALDWIN attributed the want of support to the weakness of the former Government, and not to any want of disposition in the Union to support every part thereof; for which reason he declined any comment upon the inattention which Congress had formerly shown on this subject.

As to the sum of 41,000 dollars, he presumed it was necessary, because by an estimate which he had seen, and which was mentioned in the communication on the table, the treaty with the Creeks would cost 25,000 dollars, and another, which he understood might possibly be in contemplation with the Wabashes, would cost 16,000, making the whole sum moved for. Had the bill confined the subject of negotiation to the Creeks alone, as both he and his colleague wished, 41,000 dollars was certainly a large sum; but since it was determined to leave the subject open, he conceived Congress would agree to make that grant.

MR. CLYMER was willing to allow the whole sum, and was satisfied such part of it as was expended would be done in a satisfactory manner, and the residue would be reserved in the Treasury.

MR. FITZSIMONS was sorry to differ on this subject with his worthy colleague, but he could

H. of R.]

Amendments to the Constitution.

[August 13, 1789.]

not consent to risk the public money without knowing for what. If 41,000 dollars were necessary to the accomplishment of the present object, he should not hesitate to vote for that sum; but before he could agree to it, he must see an estimate of the expense, on which to found his judgment. As the honorable gentleman from Georgia had referred to letters on the table for information on this point, he wished to have the papers accompanying the message read.

The communications being read, Mr. BURKE proceeded to remark, that the State of South Carolina had not been an indifferent spectator of the calamities of her sister and neighboring State, but she was prevented, by the confederation and local circumstances, from making those exertions in her support which she was disposed to make. He was of opinion, if Congress did not think it absolutely necessary to send troops up into that country, they would act wisely to stand ready to embrace any advantages arising from the present measure. He hoped the bill would not be defeated by an ill-timed parsimony; if a peace was brought about for 41,000 dollars, it would eventually be a great saving to the Union.

Mr. JACKSON read some letters from that country, by which it appeared that M'Gillivray was far from being disposed for peace; from which he enforced again the necessity of sending out troops, and embodying the militia.

Mr. HARTLEY thought the difficulty on the present occasion arose from the want of having some rule to decide upon. No estimate of the probable expense was brought forward, consequently gentlemen were embarrassed. It was no doubt well known on this floor, that the Creek Indians were the most numerous of any nation upon the frontiers. If then gentlemen admit that 16,000 dollars, is no more than sufficient to defray the expense of negotiating with the Wabashes, they cannot hesitate to allow 25,000 dollars for the other. Nor is this all; the President in his message contemplates other treaties besides the one with the Creeks, and this provision is to empower him generally to send commissioners into the Indian country, and conclude treaties for terminating all differences in that quarter.

Mr. MOORE did not doubt but whatever money was appropriated, would be used with economy; but he was decidedly against expending any sum in such way, because it was nothing more than holding out a bribe for the savages to commence hostilities whenever they should want presents from the United States; he hoped neither this nor any future Congress would ever allow a shilling to be appropriated to any such use.

Mr. BALDWIN produced an estimate of the probable expense of a treaty with the Creek Indians, from which it appeared that the treaty would cost the Union twenty-five thousand dollars.

The question of filling the blank with forty-

one thousand dollars was now taken and lost, there being twenty-three for, and twenty-four against it.

Mr. MADISON was sorry the question was lost, because it was of importance that the business should be done; and he thought it would be best to err on the safe side. If forty-one thousand dollars had been granted, gentlemen might have rested assured that it would be expended with economy. Besides, if nothing decisive was now done, it would be the loss of a year, on account of the approaching season.

He moved to fill the blank with forty thousand dollars, which was a round sum.

On this motion the yeas and nays were called by one-fifth of the members present, and are as follow:

YEAS.—Messrs. Baldwin, Benson, Brown, Burke, Cadwalader, Clymer, Coles, Fitzsimons, Gale, Griffin, Hartley, Huntington, Jackson, Lawrence, Lee, Madison, Matthews, Muhlenburg, Page, Scott, Smith, (of South Carolina,) Stone, Sylvester, Trumbull, Tucker, Vining, Wadsworth, and Wynkoop.—28.

NAYS.—Messrs. Ames, Boudinot, Carroll, Floyd, Gerry, Gilman, Grout, Hathorn, Heister, Leonard, Livermore, Moore, Parker, Partridge, Van Rensselaer, Schureman, Sedgwick, Seney, Sherman, Smith, (of Maryland,) Sturgis, Sumter, and Thatcher.—23.

So the motion was agreed to.

The bill was recommitted to the Committee of the whole, on account of some imperfections, and after being corrected in the Committee of the whole, the bill was again ordered to be engrossed, and read a third time to-morrow; after which the House adjourned.

THURSDAY, August 13.

INDIAN TRIBES.

The engrossed bill for providing for the expenses which may attend negotiations with the Indian tribes, and the appointment of commissioners for managing the same, was read the third time, passed, and sent to the Senate for concurrence.

AMENDMENTS TO THE CONSTITUTION.

Mr. LEE moved that the House now resolve itself into a Committee of the whole, on the report of the committee of eleven, to whom it had been referred to take the subject of amendments to the constitution of the United States generally into their consideration.

Mr. PAGE hoped the House would agree to the motion of his colleague without hesitation, because he conceived it essentially necessary to proceed and finish the business as speedily as possible; for whatever might be the fact with respect to the security which the citizens of America had for their rights and liberties under the new constitution, yet unless they saw it in that light, they would be uneasy, not to say dissatisfied.

He thought, likewise, that the business would be expedited by the simplicity and self-evidence which the propositions reported possessed, as it

AUGUST 13, 1789.]

Amendments to the Constitution.

[H. OF R.]

was impossible that much debate could take place.

Mr. SEDGWICK was sorry that the motion was made, because he looked upon this as a very improper time to enter upon the consideration of a subject which would undoubtedly consume many days; and when they had so much other and more important business requiring immediate attention, he begged gentlemen to recollect that all they had hitherto done was of little or no effect; their impost and tonnage laws were but a dead letter.

Mr. MADISON did not think it was an improper time to proceed in this business; the House had already gone through with subjects of a less interesting nature; now if the Judiciary bill was of such vast importance, its consideration ought not to have been postponed for those purposes.

He would remind gentlemen that there were many who conceived amendments of some kind necessary and proper in themselves; while others who are not so well satisfied of the necessity and propriety, may think they are rendered expedient from some other consideration. Is it desirable to keep up a division among the people of the United States on a point in which they consider their most essential rights are concerned? If this is an object worthy the attention of such a numerous part of our constituents, why should we decline taking it into our consideration, and thereby promote that spirit of urbanity and unanimity which the Government itself stands in need of for its more full support?

Already has the subject been delayed much longer than could have been wished. If after having fixed a day for taking it into consideration, we should put it off again, a spirit of jealousy may be excited, and not allayed without great inconvenience.

Mr. VINING, impressed by the anxiety which the honorable gentleman from Virginia had discovered for having the subject of amendments considered, had agreed, in his own mind, to waive, for the present, the call he was well authorized to make, for the House to take into consideration the bill for establishing a Land Office for the disposal of the vacant lands in the Western Territory. In point of time, his motion had the priority; in point of importance, every candid mind would acknowledge its preference; and he conceived the House was bound to pay attention to it as early as possible; as they had given leave for a bill to be brought in, they ought not to neglect proceeding onwards with it.

Mr. SEDGWICK hoped the House would not consume their time in a lengthy discussion upon what business should be done first. He was of opinion that there were several matters before them of more importance than the present; and he believed the people abroad were neither anxious nor jealous about it; but if they were, they would be satisfied at the delay, when they were informed of the cause. He

begged, therefore, that the question proposed by the gentleman from Virginia (Mr. LEE) might be put without further debate.

Mr. SMITH said that the judicial bill was entitled to the preference in point of order, and in point of propriety it deserved the first attention of the House. For his part, he could not conceive the necessity of going into any alterations of the Government until the Government itself was perfected. The constitution establishes three branches to constitute a whole; the legislative and executive are now in existence, but the judicial is uncreated. While we remain in this state, not a single part of the revenue system can operate; no breach of your laws can be punished; illicit trade cannot be prevented. Greater harm will arise from delaying the establishment of the judicial system, than can possibly grow from a delay of the other subject. If gentlemen are willing to let it lie over to a period of greater leisure, I shall join them cheerfully and candidly, said he, in a full discussion of that business.

An honorable gentleman from Virginia observed to us that these propositions were self-evident, that little or no debate could grow out of them. That may be his opinion, but truly, sir, it is not mine; for I think some of them are not self-evident, and some of them will admit of lengthy discussion; and some others, I hope, may be rejected, while their place may be better supplied by others hereafter to be brought forward. Some members are pledged to support amendments, and will, no doubt, support them with all the arguments their fancy or ingenuity can suggest. Viewing it in this light, it is not to be expected that the discussion will be ended in less than a fortnight or three weeks; and let gentlemen consult their own feelings whether they have so much time now to spare.

Mr. HARTLEY thought the judicial system ought to be finished before any other business was entered upon, and was willing to consider of amendments to the constitution when the House was more disengaged; because he wished very much that the constitution was so modified as to give satisfaction to honest and candid minds. Such would be satisfied with securing to themselves and their posterity all those blessings of freedom which they are now possessed of. As to the artful and designing, who had clamored against the whole work, he had not the smallest desire to gratify them: he hoped and trusted their numbers were but few.

Mr. GERRY thought the discussion would take up more time than the House could now spare; he was, therefore, in favor of postponing the consideration of the subject, until the Judicial bill, and the bill for registering and clearing vessels, and some other bills relating to the revenue business, were gone through. He asked the gentleman from Virginia, if he conceived that the amendments in the report were all that were to be taken into consideration. He thought the community would be little more pleased with them than if they had omitted the subject

altogether. Besides, it was absurd to suppose that the members were obliged to confine their deliberations solely to those objects, when it was very well known that the members from Massachusetts and New Hampshire were bound to bring forward and support others. The members from other States may be inclined to do the same with respect to the amendments of their own conventions; this will inevitably produce a more copious debate than the gentleman contemplates. From these considerations it might be hoped that honorable gentlemen would no longer press the motion.

Mr. LAWRENCE had no objection to consider amendments at a proper time, but did not think that the present was a proper time to enter upon them, nor did he suppose that gentlemen would be precluded from a full discussion of the whole subject whenever it was taken up. Gentlemen would find him ready to acquiesce in every thing that was proper, but he could not consent to let the great business of legislation stand still, and thereby incur an absolute evil in order to rid themselves of an imaginary one; for whether the subject of amendments was considered now or at a more distant period, appeared to his mind a matter of mere indifference. It may further be observed, that few, if any, of the State Assemblies are now in session; consequently the business could not be completed even if Congress had already done their part; but certainly the people in general are more anxious to see the Government in operation, than speculative amendments upon an untried constitution.

Mr. MADISON.—I beg leave to make one or two remarks more, in consequence of the observations which have fallen from the different sides of the House. Some gentlemen seem to think that additional propositions will be brought forward; whether they will or not, I cannot pretend to say; but if they are, I presume they will be no impediment to our deciding upon those contained in the report. But gentlemen who introduce these propositions will see, that if they are to produce more copious debate than has hitherto taken place, they will consume a great part of the remainder of the session. I wish the subject well considered, but I do not wish to see any unnecessary waste of time; and gentlemen will please to remember that this subject has yet to go before the Senate.

I admit, with the worthy gentleman who preceded me, that a great number of the community are solicitous to see the Government carried into operation; but I believe that there is a considerable part also anxious to secure those rights which they are apprehensive are endangered by the present constitution. Now, considering the full confidence they reposed at the time of its adoption in their future representatives, I think we ought to pursue the subject to effect. I confess it has already appeared to me, in point of candor and good faith, as well as policy, to be incumbent on the first Legislature of the United States, at their first session, to

make such alterations in the constitution as will give satisfaction, without injuring or destroying any of its vital principles.

I should not press the subject at this time, because I am well aware of the importance of the other business enumerated by the gentlemen who are adverse to the present motion, but from an apprehension that, if it is delayed until the other is gone through, gentlemen's patience and application will be so harassed and fatigued, as to oblige them to leave it in an unfinished state until the next session; besides, were the Judicial bill to pass now, it could not take effect until others were enacted, which probably at this time are not drawn up.

Mr. SMITH.—The honorable gentleman has concluded his remarks by assigning the best reason in the world why we should go into a consideration of the Judicial bill. He says, that even if it were now passed, it would take some time before it could get into operation; he must admit it to be an essential part of the Government, and, as such, ought not to remain a single instant in a state of torpidity.

Mr. FITZSIMONS wished gentlemen would suffer the question to be put, and not consume the time in arguing about what should be done. If a majority was not in favor of considering amendments, they might proceed to some other business.

Mr. PAGE was positive the people would never support the Government unless their anxiety was removed. They, in some instances, adopted it, in confidence of its being speedily amended; they will complain of being deceived unless their expectations are fulfilled. So much time has elapsed since the subject was first brought forward, said he, that people will not think us serious, unless we now set about and complete it.

He begged gentlemen to consider the importance of the number of citizens, who were anxious for amendments; if these had been added to those who openly opposed the constitution, it possibly might have met a different fate. Can the Government, under these circumstances, possess energy, as some gentlemen suppose? Is not the confidence of the people absolutely necessary to support it?

The question was now put, and carried in the affirmative.

The House then resolved itself into a Committee of the whole, Mr. BOURNOR in the chair, and took the amendments under consideration. The first article ran thus: "In the introductory paragraph of the constitution, before the words 'We the people,' add 'Government being intended for the benefit of the people, and the rightful establishment thereof being derived from their authority alone.'"

Mr. SHERMAN.—I believe, Mr. Chairman, this is not the proper mode of amending the constitution. We ought not to interweave our propositions into the work itself, because it will be destructive of the whole fabric. We might as well endeavor to mix brass, iron, and clay,

AUGUST 13, 1789.]

Amendments to the Constitution.

[H. OF R.]

as to incorporate such heterogeneous articles; the one contradictory to the other. Its absurdity will be discovered by comparing it with a law. Would any Legislature endeavor to introduce into a former act a subsequent amendment, and let them stand so connected? When an alteration is made in an act, it is done by way of supplement; the latter act always repealing the former in every specified case of difference.

Besides this, sir, it is questionable whether we have the right to propose amendments in this way. The constitution is the act of the people, and ought to remain entire. But the amendments will be the act of the State Governments. Again, all the authority we possess is derived from that instrument; if we mean to destroy the whole, and establish a new constitution, we remove the basis on which we mean to build. For these reasons, I will move to strike out that paragraph and substitute another.

The paragraph proposed was to the following effect:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the following articles be proposed as amendments to the constitution, and when ratified by three-fourths of the State Legislatures shall become valid to all intents and purposes, as part of the same.

Under this title, the amendments might come in nearly as stated in the report, only varying the phraseology so as to accommodate them to a supplementary form.

MR. MADISON.—Form, sir, is always of less importance than the substance; but on this occasion, I admit that form is of some consequence, and it will be well for the House to pursue that which, upon reflection, shall appear to be the most eligible. Now it appears to me, that there is a neatness and propriety in incorporating the amendments into the constitution itself; in that case the system will remain uniform and entire; it will certainly be more simple, when the amendments are interwoven into those parts to which they naturally belong, than it will if they consist of separate and distinct parts. We shall then be able to determine its meaning without references or comparison; whereas, if they are supplementary, its meaning can only be ascertained by a comparison of the two instruments, which will be a very considerable embarrassment. It will be difficult to ascertain to what parts of the instrument the amendments particularly refer; they will create unfavorable comparisons; whereas, if they are placed upon the footing here proposed, they will stand upon as good foundation as the original work.

Nor is it so uncommon a thing as gentlemen suppose; systematic men frequently take up the whole law, and, with its amendments and alterations, reduce it into one act. I am not, however, very solicitous about the form, provided the business is but well completed.

MR. SMITH did not think the amendment proposed by the honorable gentlemen from Con-

necticut was compatible with the constitution, which declared, that the amendments recommended by Congress, and ratified by the Legislatures of three-fourths of the several States, should be part of this constitution; in which case it would form one complete system; but according to the idea of the amendment, the instrument is to have five or six suits of improvements. Such a mode seems more calculated to embarrass the people than any thing else, while nothing in his opinion was a juster cause of complaint than the difficulties of knowing the law, arising from legislative obscurities that might easily be avoided. He said, that it had certainly been the custom in several of the State Governments, to amend their laws by way of supplement. But South Carolina had been an instance of the contrary practice, in revising the old code; instead of making acts in addition to acts, which is always attended with perplexity, she has incorporated them, and brought them forward as a complete system, repealing the old. This is what he understood was intended to be done by the committee; the present copy of the constitution was to be done away, and a new one substituted in its stead.

MR. TUCKER wished to know whether the deliberations of the committee were intended to be confined to the propositions on the table. If they were not, he should beg leave to bring before them the amendments proposed by South Carolina. He considered himself as instructed to bring them forward, and he meant to perform his duty by an early and prompt obedience. He wished to have the sense of the House on this point, whether he was in order to bring them forward.

MR. LIVERMORE was clearly of opinion, that whatever amendments were made to the constitution, they ought to stand separate from the original instrument. We have no right, said he, to alter a clause, any otherwise than by a new proposition. We have well-established precedents for such a mode of procedure in the practice of the British Parliament and the State Legislatures throughout America. I do not mean, however, to assert that there has been no instance of a repeal of the whole law on enacting another; but this has generally taken place on account of the complexity of the original, with its supplements. Were we a mere Legislative body, no doubt it might be warrantable in us to pursue a similar method; but it is questionable whether it is possible for us, consistent with the oath we have taken, to attempt a repeal of the constitution of the United States, by making a new one to substitute in its place; the reason of this is grounded on a very simple consideration. It is by virtue of the present constitution, I presume, that we attempt to make another; now, if we proceed to the repeal of this, I cannot see upon what authority we shall erect another; if we destroy the base, the superstructure falls of course. At some future day it may be asked upon what authority we proceeded to raise and appropriate public mo-

neys. We suppose we do it in virtue of the present constitution; but it may be doubted whether we have a right to exercise any of its authorities while it is suspended, as it will certainly be from the time that two-thirds of both Houses have agreed to submit it to the State Legislatures; so that, unless we mean to destroy the whole constitution, we ought to be careful how we attempt to amend it in the way proposed by the committee. From hence, I presume it will be more prudent to adopt the mode proposed by the gentleman from Connecticut, than it will be to risk the destruction of the whole by proposing amendments in the manner recommended by the committee.

Mr. VINING disliked a supplementary form, and said it was a bad reason to urge the practice of former ages, when there was a more convenient method of doing the business at hand. He had seen an act entitled an act to amend a supplement to an act entitled an act for altering part of an act entitled an act for certain purposes therein mentioned. If gentlemen were disposed to run into such jargon in amending and altering the constitution, he could not help it; but he trusted they would adopt a plainness and simplicity of style on this and every other occasion, which should be easily understood. If the mode proposed by the gentleman from Connecticut was adopted, the system would be distorted, and, like a careless written letter, have more attached to it in a postscript than was contained in the original composition.

The constitution being a great and important work, ought all to be brought into one view, and made as intelligible as possible.

Mr. CLYMER was of opinion with the gentleman from Connecticut, that the amendments ought not to be incorporated in the body of the work, which he hoped would remain a monument to justify those who made it; by a comparison, the world would discover the perfection of the original, and the superfluity of the amendments. He made this distinction, because he did not conceive any of the amendments essential, but as they were solicited by his fellow-citizens, and for that reason they were acquiesced in by others; he therefore wished the motion for throwing them into a supplementary form might be carried.

Mr. STONE.—It is not a matter of much consequence, with respect to the preservation of the original instrument, whether the amendments are incorporated or made distinct; because the records will always show the original form in which it stood. But in my opinion, we ought to mark its progress with truth in every step we take. If the amendments are incorporated in the body of the work, it will appear, unless we refer to the archives of Congress, that GEORGE WASHINGTON, and the other worthy characters who composed the convention, signed an instrument which they never had in contemplation. The one to which he affixed his signature purports to be adopted by the unanimous consent of the delegates from every State there assembled.

Now if we incorporate these amendments, we must undoubtedly go further, and say that the constitution so formed was defective, and had need of alteration; we therefore purpose to repeal the old and substitute a new one in its place. From this consideration alone, I think we ought not to pursue the line of conduct drawn for us by the committee. This perhaps is not the last amendment the constitution may receive; we ought therefore to be careful how we set a precedent which, in dangerous and turbulent times, may unhinge the whole.

With respect to the observations of the gentleman from South Carolina, I shall just remark, that we have no authority to repeal the whole constitution. The words referred to in that instrument only authorize us to propose amendments to it, which, when properly ratified, are to become valid as a part of the same; but these can never be construed to empower us to make a new constitution.

For these reasons, I would wish our expressions might be so guarded, as to purport nothing but what we really have in view.

Mr. LIVERMORE.—The mode adopted by the committee might be very proper, provided Congress had the forming of a constitution in contemplation; then they, or an individual member, might propose to strike out a clause and insert another, as is done with respect to article 3, section 2. But certainly no gentleman acquainted with legislative business would pretend to alter and amend, in this manner, a law already passed. He was convinced it could not be done properly in any other way than by the one proposed by the gentleman from Connecticut.

Mr. GERRY asked, if the mode could make any possible difference, provided the sanction was the same; or whether it would operate differently in any one instance? If it will not, we are disputing about form, and the question will turn on the expediency. Now one gentleman tells you, that he is so attached to this instrument, that he is unwilling to lose any part of it; therefore, to gratify him, we may throw it into a supplementary form. But let me ask, will not this as effectually destroy some parts, as if the correction had been made by way of incorporation? or will posterity have a more favorable opinion of the original, because it has been amended by distinct acts? For my part, I cannot see what advantage can accrue from adopting the motion of the honorable gentleman from Connecticut, unless it be to give every one the trouble of erasing out of his copy of the constitution certain words and sentences, and inserting others. But, perhaps, in our great veneration for the original composition, we may go further, and pass an act to prohibit these interpolations, as it may injure the text.

All this, sir, I take to be trifling about matters of little consequence. The constitution has undoubtedly provided that the amendments shall be incorporated if I understand the import of the words, "and shall be valid to all intents and purposes, as part of the constitution."

AUGUST 13, 1789.]

Amendments to the Constitution.

[H. OF R.]

If it had said that the present form should be preserved, then it would be proper to propose the alterations by way of a supplement. One gentleman has said we shall lose the names that are now annexed to the instrument. They are names, sir, I admit, of high respect; but I would ask that gentleman, if they would give validity to the constitution if it were not ratified by the several States? or if their names were struck out, whether it would be of less force than it is at present? If he answers these questions in the negative, I shall consider it of no consequence whether the names are appended to it or not. But it will be time enough to discuss this point, when a motion is made for striking them out.

If we proceed in the way proposed by the honorable gentleman from Connecticut, I presume the title of our first amendment will be, a supplement to the constitution of the United States; the next a supplement to the supplement, and so on, until we have supplements annexed five times in five years, wrapping up the constitution in a maze of perplexity; and as great an adept as that honorable gentleman is at finding out the truth, it will take him, I apprehend, a week or a fortnight's study to ascertain the true meaning of the constitution.

It is said, if the amendments are incorporated, it will be a virtual repeal of the constitution. I say the effect will be the same in a supplementary way; consequently the objection goes for nothing, or it goes against making any amendments whatever.

It is said that the present form of the amendments is contrary to the 5th article. I will not undertake to define the extent of the word amendment, as it stands in the fifth article; but I suppose if we proposed to change the division of the powers given to the three branches of the Government, and that proposition is accepted and ratified by three-fourths of the State Legislatures, it will become as valid, to all intents and purposes, as any part of the constitution; but if it is the opinion of gentlemen that the original is to be kept sacred, amendments will be of no use, and had better be omitted; whereas, on the other hand, if they are to be received as equal in authority, we shall have five or six constitutions, perhaps differing in material points from each other, but all equally valid; so that they may require a man of science to determine what is or is not the constitution. This will certainly be attended with great inconvenience, as the several States are bound not to make laws contradictory thereto, and all officers are sworn to support it, without knowing precisely what it is.

Mr. STONE asked the gentleman last up, how he meant to have the amendments incorporated? Was it intended to have the constitution republished, and the alterations inserted in their proper places? He did not see how it was practicable to propose amendments, without making out a new constitution, in the manner brought forward by the committee.

Mr. LAWRENCE could not conceive how gentlemen meant to engraft the amendments into the constitution. The original one, executed by the convention at Philadelphia, was lodged in the archives of the late Congress, it was impossible for this House to take, and correct, and interpolate that without making it speak a different language: this would be supposing several things which never were contemplated. But what would become of the acts of Congress? They will certainly be vitiated, unless they are provided for by an additional clause in the constitution.

What shall we say with respect to the ratifications of the several States? They adopted the original constitution, but they have not thereby enabled us to change the one form of Government for another. It is true, amendments were proposed by some of them; but it does not follow, of necessity, that we should alter the form of the original which they have ratified. Amendments in this way are only proper in legislative business, while the bill is on its passage, as was justly observed before.

Mr. BENSON said, that this question had been agitated in the select committee, and determined in favor of the form in which it was reported; he believed this decision was founded in a great degree upon the recommendation of the State conventions, which had proposed amendments in this very form. This pointed out the mode most agreeable to the people of America, and therefore the one most eligible for Congress to pursue; it will likewise be the most convenient way. Suppose the amendments ratified by the several States; Congress may order a number of copies to be printed, into which the alterations will be inserted, and the work stand perfect and entire.

I believe it never was contemplated by any gentleman to alter the original constitution deposited in the archives of the Union, that will remain there with the names of those who formed it, while the Government has a being. But certainly there is convenience and propriety in completing the work in a way provided for in itself. The records of Congress and the several States will mark the progress of the business, and nothing will appear to be done but what is actually performed.

Mr. MADISON.—The gentleman last up has left me but one remark to add, and that is, if we adopt the amendment, we shall so far unninge the business, as to occasion alterations in every article and clause of the report.

Mr. HARTLEY hoped the committee would not agree to the alteration, because it would perplex the business. He wished the propositions to be simple and entire, that the State Legislatures might decide without hesitation, and every man know what was the ground on which he rested his political welfare. Besides, the consequent changes which the motion would induce, were such as, he feared, would take up some days, if not weeks; and the time of the House was too precious to be squandered away in discussing mere matter of form.

H. OF R.]

Amendments to the Constitution.

[AUGUST 13, 1789.]

Mr. PAGE was sorry to find the gentlemen stop at the preamble; he hoped they would proceed as soon as the obstruction was removed, and that would be when the motion was negatived.

He thought the best way to view this subject, was to look at the constitution as a bill on its passage through the House, and to consider and amend its defects, article by article; for which reason he was for entering at once upon the main business. After that was gone through, it would be time enough to arrange the materials with which the House intended to form the preamble.

Mr. LIVERMORE insisted, that neither this Legislature, nor all the Legislatures in America, were authorized to repeal a constitution; and that must be an inevitable consequence of an attempt to amend it in a way proposed by the committee. He then submitted to gentlemen the propriety of the alteration.

As to the difficulty which had been supposed in understanding supplemental laws, he thought but little of it; he imagined there were things in the constitution more difficult to comprehend than any thing he had yet seen in the amendments.

Mr. JACKSON.—I do not like to differ with gentlemen about form; but as so much has been said, I wish to give my opinion; it is this: that the original constitution ought to remain inviolate, and not be patched up, from time to time, with various stuffs resembling Joseph's coat of many colors.

Some gentlemen talk of repealing the present constitution, and adopting an improved one. If we have this power, we may go on from year to year, making new ones; and in this way, we shall render the basis of the superstructure the most fluctuating thing imaginable, and the people will never know what the constitution is. As for the alteration proposed by the committee to prefix before "We the people," certain dogmas, I cannot agree to it; the words, as they now stand, speak as much as it is possible to speak; it is a practical recognition of the right of the people to ordain and establish Governments, and is more expressive than any other mere paper declaration.

But why will gentlemen contend for incorporating amendments into the constitution? They say, that it is necessary for the people to have the whole before them in one view. Have they precedent for this assertion? Look at the constitution of Great Britain; is that all contained in one instrument? It is well known, that *magna charta* was extorted by the barons from King John some centuries ago. Has that been altered since by the incorporation of amendments? Or does it speak the same language now, as it did at the time it was obtained? Sir, it is not altered a tittle from its original form. Yet there have been many amendments and improvements in the constitution of Britain since that period. In the subsequent reign of his son, the great charters were confirmed with some supplemen-

tal acts. Is the *habeas corpus* act, or the statute *De Tollagio non concedendo* incorporated in *magna charta*? And yet there is not an Englishman but would spill the last drop of his blood in their defence; it is these, with some other acts of Parliament and *magna charta*, that form the basis of English liberty. We have seen amendments to their constitution during the present reign, by establishing the independence of the judges, who are hereafter to be appointed during good behavior; formerly they were at the pleasure of the crown. But was this done by striking out and inserting other words in the great charter? No, sir, the constitution is composed of many distinct acts; but an Englishman would be ashamed to own that, on this account, he could not ascertain his own privileges or the authority of the Government.

The constitution of the Union has been ratified and established by the people; let their act remain inviolable; if any thing we can do has a tendency to improve it, let it be done, but without mutilating and defacing the original.

Mr. SHERMAN.—If I had looked upon this question as mere matter of form, I should not have brought it forward or troubled the committee with such a lengthy discussion. But, sir, I contend that amendments made in the way proposed by the committee are void. No gentleman ever knew an addition and alteration introduced into an existing law, and that any part of such law was left in force; but if it was improved or altered by a supplemental act, the original retained all its validity and importance, in every case where the two were not incompatible. But if these observations alone should be thought insufficient to support my motion, I would desire gentlemen to consider the authorities upon which the two constitutions are to stand. The original was established by the people at large, by conventions chosen by them for the express purpose. The preamble to the constitution declares the act; but will it be a truth in ratifying the next constitution, which is to be done perhaps by the State Legislatures, and not conventions chosen for the purpose? Will gentlemen say it is "We the people" in this case? Certainly they cannot; for, by the present constitution, we, nor all the Legislatures in the Union together, do not possess the power of repealing it. All that is granted us by the 5th article is, that whenever we shall think it necessary, we may propose amendments to the constitution; not that we may propose to repeal the old, and substitute a new one.

Gentlemen say, it would be convenient to have it in one instrument, that people might see the whole at once; for my part, I view no difficulty on this point. The amendments reported are a declaration of rights; the people are secure in them, whether we declare them or not; the last amendment but one provides that the three branches of Government shall each exercise its own rights. This is well secured already; and, in short, I do not see that they lessen the force of any article in the constitution: if so,

AUGUST 13, 1789.]

Amendments to the Constitution.

[H. OF R.]

there can be little more difficulty in comprehending them whether they are combined in one, or stand distinct instruments.

Mr. SMITH read extracts from the amendments proposed by several of the State conventions at the time they ratified the constitution, from which, he said, it appeared that they were generally of opinion that the phraseology of the constitution ought to be altered; nor would this mode of proceeding repeal any part of the constitution but such as it touched, the remainder will be in force during the time of considering it and ever after.

As to the observations made by the honorable gentleman from Georgia, respecting the amendments made to the constitution of Great Britain, they did not apply; the cases were nothing like similar, and consequently, could not be drawn into precedent. The constitution of Britain is neither the *magna charta* of John, nor the *habeas corpus* act, nor all the charters put together; it is what the Parliament wills. It is true, there are rights granted to the subject that cannot be resumed; but the constitution, or form of Government, may be altered by the authority of Parliament, whose power is absolute without control.

Mr. SENEY was afraid the House would consume more time than was at first apprehended in discussing the subject of amendments, if he was to infer any thing from what had now taken place. He hoped the question would soon be put and decided.

Mr. VINING was an enemy to unnecessary debate, but he conceived the question to be an important one, and was not displeased with the discussion that had taken place; he should, however, vote in favor of the most simple mode.

Mr. GERRY.—The honorable gentleman from Connecticut, if I understand him right, says that the words "We the people" cannot be retained, if Congress should propose amendments, and they be ratified by the State Legislatures. Now, if this is a fact, we ought most undoubtedly to adopt his motion; because if we do not, we cannot obtain any amendment whatever. But upon what ground does the gentleman's position stand? The constitution of the United States was proposed by a convention met at Philadelphia; but, with all its importance, it did not possess as high authority as the President, Senate, and House of Representatives of the Union. For that convention was not convened in consequence of any express will of the people, but an implied one, through their members in the State Legislatures. The constitution derived no authority from the first convention; it was concurred in by conventions of the people, and that concurrence armed it with power and invested it with dignity. Now the Congress of the United States are expressly authorized by the sovereign and uncontrollable voice of the people, to propose amendments whenever two-thirds of both Houses shall think fit. Now, if this is the fact, the propositions of amendment will be found to originate with a higher

authority than the original system. The conventions of the States, respectively, have agreed for the people, that the State Legislatures shall be authorized to decide upon these amendments in the manner of a convention. If these acts of the State Legislatures are not good, because they are not specifically instructed by their constituents, neither were the acts calling the first and subsequent conventions.

Does he mean to put amendments on this ground, that after they have been ratified by the State Legislatures, they are not to have the same authority as the original instrument? If this is his meaning, let him avow it; and if it is well founded, we may save ourselves the trouble of proceeding in the business. But, for my part, I have no doubt but a ratification of the amendments, in any form, would be as valid as any part of the constitution. The Legislatures are elected by the people. I know no difference between them and conventions, unless it be that the former will generally be composed of men of higher characters than may be expected in conventions; and in this case, the ratification by the Legislatures would have the preference.

Now, if it is clear that the effect will be the same in either mode, will gentlemen hesitate to approve the most simple and clear? It will undoubtedly be more agreeable to have it all brought into one instrument, than have to refer to five or six different acts.

Mr. SHERMAN.—The gentlemen who oppose the motion say we contend for matter of form; they think it nothing more. Now we say we contend for substance, and therefore cannot agree to amendments in this way. If they are so desirous of having the business completed, they had better sacrifice what they consider but a matter of indifference to gentlemen, to go more unanimously along with them in altering the constitution.

The question on Mr. SHERMAN's motion was now put and lost.

Mr. LIVERMORE wished to know whether it was necessary, in order to carry a motion in committee, that two-thirds should agree.

Mr. HARTLEY mentioned, that in Pennsylvania, they had a council of censors who were authorized to call a convention to amend the constitution when it was thought necessary, but two-thirds were required for that purpose. He had been a member of that body, when they had examined the business in a committee of council; the majority made a report, which was lost for want of two-thirds to carry it through the council.

Some desultory conversation took place on this subject, when it was decided by the chairman of the committee that a majority of the committee were sufficient to form a report.

An appeal being made from the opinion of the chair, it was, after some observations, confirmed by the committee. After which the committee rose and reported progress.

Adjourned.

FRIDAY, August 14.

ABIEL FOSTER, from New Hampshire, appeared and took his seat.

AMENDMENTS TO THE CONSTITUTION.

The House then again resolved itself into a Committee of the whole, on the amendments to the constitution, Mr. TRUMBULL in the chair; when,

Mr. SMITH wished to transpose the words of the first amendment, as they did not satisfy his mind in the manner they stood.

Mr. GERRY said, they were not well expressed; we have it here "government being intended for the benefit of the people;" this holds up an idea that all the Governments of the earth are intended for the benefit of the people. Now, I am so far from being of this opinion, that I do not believe that one out of fifty is intended for any such purpose. I believe the establishment of most Governments is to gratify the ambition of an individual, who, by fraud, force, or accident, had made himself master of the people. If we contemplate the history of nations, ancient or modern, we shall find they originated either in fraud or force, or both. It is demonstrable, how can we pretend to say that Governments are intended for the benefit of those who are most oppressed by them. This maxim does not appear to me to be strictly true in fact, therefore I think we ought not to insert it in the constitution. I shall therefore propose to amend the clause, by inserting "of right," then it will stand as it ought. I do not object to the principle, sir; it is a good one, but it does not generally hold in practice.

The question on inserting the words "of right" was put, and determined in the negative.

Mr. TUCKER.—I presume these propositions are brought forward under the idea of being amendments to the constitution; but can this be esteemed an amendment of the constitution? If I understand what is meant by the introductory paragraph, it is the preamble to the constitution; but a preamble is no part of the constitution. It is, to say the best, a useless amendment. For my part, I should as soon think of amending the concluding part, consisting of General Washington's letter to the President of Congress, as the preamble; but if the principle is of importance, it may be introduced into a bill of rights.

Mr. SMITH read the amendments on this head, proposed by the conventions of New York, Virginia, and North Carolina, from which it appeared that these States had expressed a desire to have an amendment of this kind.

Mr. TUCKER replied, that the words "We the people do ordain and establish this constitution for the United States of America," were a declaration of their action; this being performed, Congress have nothing to do with it. But if it was necessary to retain the principle, it might come in at some other place.

Mr. SUMNER thought this was not a proper place to introduce any general principle; per-

haps, in going through with the amendments, something might be proposed subversive of what was there declared; wherefore he wished the committee would pass over the preamble until they had gone through all the amendments, and then, if alterations were necessary, they could be accommodated to what had taken place in the body of the constitution.

Mr. LIVERMORE was not concerned about the preamble; he did not care what kind it was agreed to form in the committee; because, when it got before the House, it would be undone if one member more than one-third of the whole opposed it.

Mr. PAGE thought the preamble no part of the constitution; but if it was, it stood in no need of amendment; the words "We the people," had the neatness and simplicity, while its expression was the most forcible of any he had ever seen prefixed to any constitution. He did not doubt the truth of the proposition brought forward by the committee, but he doubted its necessity in this place.

Mr. MADISON.—If it be a truth, and so self-evident that it cannot be denied; if it be recognised, as is the fact in many of the State constitutions; and if it be desired by three important States, to be added to this, I think they must collectively offer a strong inducement to the mind desirous of promoting harmony, to acquiesce with the report; at least, some strong arguments should be brought forward to show the reason why it is improper.

My worthy colleague says, the original expression is neat and simple; that loading it with more words may destroy the beauty of the sentence; and others say it is unnecessary, as the paragraph is complete without it. Be it so, in their opinion; yet, still it appears important in the estimation of three States, that this solemn truth should be inserted in the constitution. For my part, sir, I do not think the association of ideas anywise unnatural; it reads very well in this place; so much so, that I think gentlemen, who admit it should come in somewhere, will be puzzled to find a better place.

Mr. SHERMAN thought they ought not to come in in this place. The people of the United States have given their reasons for doing a certain act. Here we propose to come in and give them a right to do what they did on motives which appeared to them sufficient to warrant their determination; to let them know that they had a right to exercise a natural and inherent privilege, which they have asserted in a solemn ordination and establishment of the constitution. Now, if this right is indefeasible, and the people have recognised it in practice, the truth is better asserted than it can be by any words whatever. The words "We the people" in the original constitution, are as copious and expressive as possible; any addition will only drag out the sentence without illuminating it; for these reasons, it may be hoped the committee will reject the proposed amendment.

The question on the first paragraph of the

AUGUST 14, 1789.]

Amendments to the Constitution.

[H. OF R.]

report was put and carried in the affirmative, twenty-seven to twenty-three.

The second paragraph in the report was read as follows:

Article 1. Section 2. Paragraph 3. Strike out all between the words "direct" and "and until such," and instead thereof, insert "after the first enumeration, there shall be one representative for every thirty thousand, until the number shall amount to one hundred. After which the proportion shall be so regulated by Congress, that the number of representatives shall never be less than one hundred, nor more than one hundred and seventy-five; but each State shall always have at least one representative."

MR. VINING.—The duty, sir, which I owe to my constituents, and my desire to establish the constitution on a policy, dictated by justice and liberality, which will ever secure domestic tranquillity and promote the general welfare, induces me to come forward with a motion, which I rest upon its own merits. Gentlemen who have a magnanimous policy in view, I trust, will give it their support, and concede to what is proper in itself, and likely to procure a greater degree of harmony. I therefore move you, sir, to insert after the words "one hundred and seventy-five," these words: "That where the number of inhabitants of any particular State amounts to forty-five thousand, they shall be entitled to two representatives."

This motion was negatived without a division.

MR. AXES moved to strike out "thirty thousand," and insert "forty thousand." I am induced to this, said he, because I think my fellow citizens will be dissatisfied with too numerous a representation. The present, I believe, is in proportion to one for forty thousand, the number I move to insert. I believe we have hitherto experienced no difficulty on account of the smallness of our number; if we are embarrassed, I apprehend the embarrassment will arise from our want of knowing the general interest of the nation at large; or for want of local information. If the present number is found sufficient for the purpose of legislation, without any such embarrassment, it ought to be preferred, inasmuch as it is most adequate to its object.

But before we proceed in the discussion, let us consider the effect which a representation, founded on one member for 30,000 citizens, will produce. In the first place, it will give four members for every three now entitled to a seat in this House, which will be an additional burthen to the Union, in point of expense, in the same ratio. Add to this another consideration, that probably before the first census is taken, the number of inhabitants will be considerably increased from what it was when the convention which formed this constitution obtained their information. This will probably increase the expenses of Government to 450,000 dollars annually. Now those who have attended particularly to economy; who, upon the most careful calculation, find that our revenue is likely to

fall infinitely short of our expenses, will consider this saving as a considerable object, and deserving their most serious regard.

It may become dissatisfactory to the people as an intolerable burthen. Again, it must be abundantly clear to every gentleman, that, in proportion as you increase the number of Representatives, the body degenerates; you diminish the individual usefulness; gentlemen will not make equal exertions to despatch public business, when they can lean upon others for the arrangement.

By enlarging the representation, we lessen the chance of selecting men of the greatest wisdom and abilities; because small district elections may be conducted by intrigue, but in large districts nothing but real dignity of character can secure an election. Gentlemen ought to consider how essential it is to the security and welfare of their constituents, that this branch of the Government should support its independence and consequence.

Another effect of it, will be an excitement or fermentation in the representative body. Numerous assemblies are supposed to be less under the guidance of reason than smaller ones; their deliberations are confused; they will fall the prey of party spirit; they will cabal to carry measures which they would be unable to get through by fair and open argument. All these circumstances tend to retard the public business, and increase the expense; making Government, in the eyes of some, so odious, as to induce them to think it rather a curse than a blessing.

It lessens that responsibility which is annexed to the representative of a more numerous body of people. For I believe it will be found true, that the representative of 40,000 citizens will have more at risk than the man who represents a part of them. He has more dignity of character to support, and must use the most unremitting industry in their service to preserve it unsullied; he will be more sensible of the importance of his charge, and more indefatigable in his duty.

It is said, that these amendments are introduced with a view to conciliate the affections of the people to the Government. I am persuaded the people are not anxious to have a large representation, or a representation of one for every 30,000; they are satisfied with the representation they now enjoy. The great object which the convention of Massachusetts had in view by proposing this amendment, was to obtain a security that Congress should never reduce the representation below what they conceived to be a point of security. Their object was not augmentation, it was certainly alone they wished for; at the next census, the number of representatives will be seventy or eighty, and in twenty years it will be equal to the desires of any gentleman. We shall have to guard against its growth in less than half a century. The number of proper characters to serve in the Legislature of any country is small; and of those, many are

H. OF R.]

Amendments to the Constitution.

[AUGUST 14, 1789.]

inclined to pursue other objects. If the representation is greatly enlarged, men of inferior abilities will undoubtedly creep in, for although America has as great a proportion of men of sense and judgment as any nation on earth, yet she may not have sufficient to fill a legislative body unduly enlarged. Now if it has been questioned whether this country can remain united under a Government administered by men of the most consummate abilities, the sons of wisdom, and the friends of virtue, how much more doubtful will it be, if the administration is thrown into different hands; and different hands must inevitably be employed, if the representation is too large.

MR. MADISON.—I cannot concur in sentiment with the gentleman last up, that one representative for forty thousand inhabitants will conciliate the minds of those to the Government, who are desirous of amendments; because they have rather wished for an increase, than confined themselves to a limitation.

I believe, by this motion, we shall avoid no inconvenience that can be considered of much consequence, for one member for either thirty thousand or forty thousand inhabitants, will, in a few years, give the number beyond which it is proposed Congress shall not go.

Now, if good policy requires that we accommodate the constitution to the wishes of that part of the community who are anxious for amendments, we shall agree to something like what is proposed in the report, for the States of New Hampshire, Massachusetts, New York, Virginia, and North Carolina, have desired an alteration on this head; some have required an increase as far as two hundred at least. This does not look as if certainty was their sole object.

I do not consider it necessary, on this occasion, to go into a lengthy discussion of the advantages of a less or greater representation. I agree that after going beyond a certain point, the number may become inconvenient; that is proposed to be guarded against; but it is necessary to go to a certain number, in order to secure the great objects of representation. Numerous bodies are undoubtedly liable to some objections, but they have their advantages also; if they are more exposed to passion and fermentation, they are less subject to venality and corruption; and in a Government like this, where the House of Representatives is connected with a smaller body, it might be good policy to guard them in a particular manner against such abuse.

But for what shall we sacrifice the wishes of the people? Not for a momentary advantage. Yet the amendments proposed by the gentleman from Massachusetts will lose its efficacy after the second census. I think, with respect to futurity, it makes little or no difference; and as it regards the present time, thirty thousand is the most proper, because it is the number agreed upon in the original constitution, and what is required by several States.

MR. SEDGWICK observed, that the amendment proposed by the convention of Massachu-

setts was carried there, after a full discussion; since then, the whole of the amendments proposed by the convention had been recommended by the Legislature of that State to the attention of their delegates in Congress. From these two circumstances he was led to believe, that his and his colleague's constituents were generally in favor of the amendment as stated in the report.

He did not expect any advantage would arise from enlarging the number of representatives beyond a certain point; but he thought one hundred and seventy-five rather too few.

MR. GERRY.—My colleague (Mr. AMES) has said, that we experience no inconvenience for want of either general or local knowledge. Sir, I may dispute the fact, from the difficulties we encountered in carrying through the collection bill, and on some other occasions, where we seemed much at a loss to know what are the dispositions of our constituents. But admitting this to be the fact, is information the only principle upon which we are to stand? Will that gentleman pretend to say we have as much security in a few representatives as in many? Certainly he will not. Not that I would insist upon a burthensome representation, but upon an adequate one. He supposes the expenses of the Government will be increased in a very great proportion; but if he calculates with accuracy, he will find the difference of the pay of the additional members not to exceed a fourth. The civil list was stated to cost three hundred thousand dollars, but the House of Representatives does not cost more than a ninth of that sum; consequently the additional members, at the ratio of four for three, could not amount to more than a thirtieth part, which would fall far short of what he seemed to apprehend. Is this such an object as to induce the people to risk every security which they ought to have in a more numerous representation?

One observation which I understood fell from him, was, that multiplying the number of representatives diminished the dignity and importance of the individuals who compose the House. Now I wish to know, whether he means that we should establish our own importance at the risk of the liberties of America; if so, it has been of little avail that we successfully opposed the lordly importance of a British Parliament. We shall now, I presume, be advised to keep the representation where it is, in order to secure our dignity; but I hope it will be ineffectual, and that gentlemen will be inclined to give up some part of their consequence to secure the rights of their constituents.

My honorable colleague has said, that large bodies are subject to fermentations; true, sir, but so are small ones also, when they are composed of aspiring and ambitious individuals. Large bodies in this country are likely to be composed, in a great measure, of gentlemen who represent the landed interest of the country; these are generally more temperate in debate than in others, consequently, by increasing

AUGUST 14, 1789.]

Amendments to the Constitution.

[H. OF R.]

the representation we shall have less of this fermentation than on the present establishment. As to the other objections, they are not of sufficient weight to induce the House to refuse adopting an amendment recommended by so large a body of our constituents.

Mr. LIVERMORE was against the alteration, because he was certain his constituents were opposed to it. He never heard a single person but supposed that one member was little enough to represent the interest of thirty thousand inhabitants; many had thought the proposition ought to be one for twenty or twenty-five thousand. It would be useless to propose amendments which there was no probability of getting ratified, and he feared this would be the fate of the one under consideration, if the honorable gentleman's alteration took place.

Mr. AMES begged to know the reasons upon which amendments were founded. He hoped it was not purely to gratify an indigested opinion; but in every part where they retouched the edifice it was with an intention of improving the structure; they certainly could not think of making alterations for the worse. Now that his motion would be an improvement was clearly demonstrable from the advantage in favor of deliberating by a less numerous body, and various other reasons already mentioned; but to those, the honorable gentleman from Virginia (Mr. MADISON) replied, by saying we ought to pay attention to the amendments recommended by the States. If this position is true, we have nothing more to do than read over their amendments, and propose them without exercising our judgment upon them. But he would undertake to say, that the object of the people was rather to procure certainty than increase; if so, it was the duty of Congress rather to carry the spirit of the amendment into operation than the letter of it.

The House of Representatives will furnish a better check upon the Senate, if filled with men of independent principles, integrity, and eminent abilities, than if consisting of a numerous body of inferior characters; in this opinion, said he, my colleague cannot but agree with me. Now if you diminish the consequence of the whole you diminish the consequence of each individual; it was in this view that he contended for the importance of the amendment.

He said it could not be the wish of Massachusetts to have the representation numerous, because they were convinced of its impropriety in their own Legislature, which might justly be supposed to require a greater number, as the objects of their deliberation extended to minute and local regulations. But that kind of information was not so much required in Congress, whose power embraced national objects alone. He contended, that all the local information necessary in this House, was to be found as fully among the ten members from Massachusetts, as if there had been one from every town in the State.

It is not necessary to increase the represen-

tation, in order to guard against corruption, because no one will presume to think that a body composed like this, and increased in a ratio of four to three, will be much less exposed to sale than we are. Nor is a greater number necessary to secure the rights and liberties of the people for the representative of a great body of people, is likely to be more watchful of its interests than the representative of a lesser body.

Mr. JACKSON.—I have always been afraid of letting this subject come before the House, for I was apprehensive that something would be offered striking at the very foundation of the constitution, by lessening it in the good opinion of the people. I conceive that the proposition for increasing the ratio of representation will have this tendency; but I am not opposed to the motion only on the principle of expediency, but because I think it grounded on wrong principles. The honorable gentleman's arguments were as much in favor of intrusting the business of legislation to one, two, or three men, as to a body of sixty or a hundred, they would dispatch business with greater facility and be an immense saving to the public; but will the people of America be gratified with giving the power of managing their concerns into the hands of one man? Can this take place upon the democratic principle of the constitution, I mean the doctrine of representation? Can one man, however consummate his abilities, however unimpeachable his integrity, and however superior his wisdom, be supposed capable of understanding, combining and managing interests so diversified as those of the people of America? It has been complained of, that the representation is too small at one for thirty thousand; we ought not therefore attempt to reduce it.

In a republic, the laws should be founded upon the sense of the community; if every man's opinion could be obtained, it would be the better; it is only in aristocracies, where the few are supposed to understand the general interests of the community better than the many. I hope I shall never live to see that doctrine established in this country.

Mr. STONE supposed the United States to contain three millions of people; these, at one representative for every thirty thousand, would give a hundred members, of which fifty-one were a quorum to do business; twenty-six men would be a majority, and give law to the United States, together with seven in the Senate. If this was not a number sufficiently small to administer the Government, he did not know what was. He was satisfied that gentlemen, upon mature reflection, would deem it inexpedient to reduce that number one-fourth.

Mr. SENEY said, it had been observed by the gentleman from Massachusetts, that it would tend to diminish the expense; but he considered this object as very inconsiderable when compared with that of having a fair and full representation of the people of the United States.

Mr. AMES's motion was now put, and lost by a large majority.

Mr. SEDGWICK.—When he reflected on the country, and the increase of population which was likely to take place, he was led to believe that one hundred and seventy-five members would be a body rather too small to represent such extensive concerns; for this reason he would move to strike out a hundred and seventy-five and insert two hundred.

Mr. SHERMAN said, if they were now forming a constitution, he should be in favor of one representative for forty thousand, rather than thirty thousand. The proportion by which the several States are now represented in this House was founded on the former calculation. In the convention that framed the constitution, there was a majority in favor of forty thousand, and though there were some in favor of thirty thousand, yet that proposition did not obtain until after the constitution was agreed to, when the President had expressed a wish that thirty thousand should be inserted, as more favorable to the public interest; during the contest between thirty and forty thousand, he believed there were not more than nine States who voted in favor of the former.

The objects of the Federal Government were fewer than those of the State Government; they did not require an equal degree of local knowledge; the only case, perhaps, where local knowledge would be advantageous, was in laying direct taxes; but here they were freed from an embarrassment, because the arrangements of the several States might serve as a pretty good rule on which to found their measures.

So far was he from thinking a hundred and seventy-five insufficient, that he was about to move for a reduction, because he always considered that a small body deliberated to better purpose than a greater one.

Mr. MADISON hoped gentlemen would not be influenced by what had been related to have passed in the convention; he expected the committee would determine upon their own sense of propriety; though as several States had proposed the number of two hundred, he thought some substantial reason should be offered to induce the House to reject it.

Mr. LIVERMORE said, he did not like the amendment as it was reported; he approved of the ratio being one for thirty thousand, but he wished the number of representatives might be increased in proportion as the population of the country increased, until the number of representatives amounted to two hundred.

Mr. TUCKER said, the honorable gentleman who spoke last had anticipated what he was going to remark. It appeared to him that the committee had looked but a very little way forward when they agreed to fix the representation at one hundred members, on a ratio of one to every thirty thousand upon the first enumeration. He apprehended the United States would be found to comprehend nearly three millions of people, consequently they would give

a hundred members. Now, by the amendment, it will be in the power of Congress to prevent any addition to that number; if it should be a prevalent opinion among the members of this House that a small body was better calculated to perform the public business than a larger one, they will never suffer their members to increase to a hundred and seventy-five, the number to which the amendment extended.

Mr. GERRY expressed himself in favor of extending the number to two hundred, and wished that the amendment might be so modified as to insure an increase in proportion to the increase of population.

Mr. SHERMAN was against any increase. He thought if a future House should be convinced of the impropriety of increasing this number to above one hundred, they ought to have it at their discretion to prevent it; and if that was likely to be the case, it was an argument why the present House should not decide. He did not consider that all that had been said with respect to the advantages of a large representation was founded upon experience; it had been intimated, that a large body was more incorruptible than a smaller one; this doctrine was not authenticated by any proof; he could invalidate it by an example notorious to every gentleman in this House; he alluded to the British House of Commons, which although it consisted of upwards of five hundred members, the minister always contrived to procure votes enough to answer his purpose.

Mr. LAWRENCE said, that it was a matter of opinion upon which gentlemen held different sentiments, whether a greater or less number than a certain point was best for a deliberate body. But he apprehended that whatever number was now fixed would be continued by a future Congress, if it were left to their discretion. He formed this opinion from the influence of the Senate, in which the small States were represented in an equal proportion with the larger ones. He supposed that the Senators from New Hampshire, Rhode Island, Connecticut, Jersey, and Delaware, would ever oppose an augmentation of the number of representatives; because their influence in the House would be proportionably abated. These States were incapable of extending their population beyond a certain point, inasmuch as they were confined with respect to territory. If, therefore, they could never have more than one representative, they would hardly consent to double that of others, by which their own importance would be diminished. If such a measure was carried by the large States through this House, it might be successfully opposed in the Senate; he would, therefore, be in favor of increasing the number to two hundred, and making its increase gradual till it arrived at that height.

Mr. GERRY.—The presumption is, that if provision is not made for the increase of the House of Representatives, by the present Congress, the increase never will be made. Gen-

AUGUST 14, 1789.]

Amendments to the Constitution.

[H. OF R.]

gentlemen ought to consider the difference between the Government in its infancy and when well established. The people suppose their liberties somewhat endangered; they have expressed their wishes to have them secured, and instructed their representatives to endeavor to obtain for them certain amendments, which they imagine will be adequate to the object they have in view. Besides this, there are two States not in the Union; but which we hope to annex to it by the amendments now under deliberation. These are inducements for us to proceed and adopt this amendment, independent of the propriety of the amendment itself, and such inducements as no future Congress will have, the principle of self-interest and self-importance will always operate on them to prevent any addition to the number of representatives. Cannot gentlemen contemplate a difference in situation between this and a future Congress on other accounts. We have neither money nor force to administer the constitution; but this will not be the case hereafter. In the progress of this Government its revenues will increase, and an army will be established; a future Legislature will find other means to influence the people than now exist.

This circumstance proves that we ought to leave as little as possible to the discretion of the future Government; but it by no means proves that the present Congress ought not to adopt the amendment moved by my colleague, Mr. SEDGWICK.

Mr. AMES.—It has been observed that there will be an indisposition in future Legislatures to increase the number of representatives. I am by no means satisfied that this observation is true. I think there are motives which will influence Legislatures of the best kind to increase the number of its members. There is a constant tendency in a republican Government to multiply what it thinks to be the popular branch. If we consider that men are often more attached to their places than they are to their principles, we shall not be surprised to see men of the most refined judgment advocating a measure which will increase their chance of continuing in office.

My honorable colleague has intimated that a future Legislature will be against extending the number of this branch; and that if the people are displeased, they will have it in their power, by force, to compel their acquiescence. I do not see, sir, how the Legislature is strengthened by the increase of an army. I have generally understood that it gave power to the executive arm, but not to the deliberative head: the example of every nation is against him. Nor can I conceive upon what foundation he rests his reasoning. If there is a natural inclination in the Government to increase the number of administrators, it will be prudent in us to endeavor to counteract its baneful influence.

Mr. LIVERMORE now proposed to strike out the words "one hundred," and insert "two hundred."

Mr. SEDGWICK suspended his motion until this question was determined; whereupon it was put and lost, there being twenty-two in favor of, and twenty-seven against it.

Mr. SEDGWICK's motion was then put, and carried in the affirmative.

Mr. LIVERMORE wished to amend the clause of the report in such a manner as to prevent the power of Congress from deciding the rate of increase. He thought the constitution had better fix it, and let it be gradual until it arrived at two hundred. After which, if it was the sense of the committee, it might be stationary, and liable to no other variation than that of being apportioned among the members of the Union.

Mr. AMES suggested to the consideration of gentlemen, whether it would not be better to arrange the subject in such a way as to let the representation be proportioned to a ratio of one for thirty thousand at the first census, and one for forty thousand at the second, so as to prevent a too rapid increase of the number of members. He did not make a motion of this nature, because he conceived it to be out of order, after the late decision of the committee; but it might be brought forward in the House, and he hoped would accommodate both sides.

Mr. GERRY wished that the gentleman last up would pen down the idea he had just thrown out; he thought it very proper for the consideration of the House.

The question on the second proposition of the report, as amended, was now put and carried, being twenty-seven for, and twenty-two against it.

The next proposition in the report was as follows:

Article 1. Section 6. Between the words "United States," and "shall in all cases," strike out "they," and insert "but no law varying the compensation shall take effect, until an election of representatives shall have intervened. The members."

Mr. SEDGWICK thought much inconvenience and but very little good would result from this amendment; it might serve as a tool for designing men; they might reduce the wages very low, much lower than it was possible for any gentleman to serve without injury to his private affairs, in order to procure popularity at home, provided a diminution of pay was looked upon as a desirable thing. It might also be done in order to prevent men of shining and disinterested abilities, but of indigent circumstances, from rendering their fellow-citizens those services they are well able to perform, and render a seat in this House less eligible than it ought to be.

Mr. VINING thought every future Legislature would feel a degree of gratitude to the preceding one, which had performed so disagreeable a task for them. The committee who had made this a part of their report, had been guided by a single reason, but which appeared to them a sufficient one. There was, to say the least of it,

a disagreeable sensation, occasioned by leaving it in the breast of any man to set a value on his own work; it is true it is unavoidable in the present House, but it might, and ought to be avoided in future; he therefore hoped it would obtain without any difficulty.

Mr. GERRY would be in favor of this clause, if they could find means to secure an adequate representation; but he apprehended that it would be considerably endangered; he should therefore be against it.

Mr. MADISON thought the representation would be as well secured under this clause as it would be if it was omitted; and as it was desired by a great number of the people of America, he would consent to it, though he was not convinced it was absolutely necessary.

Mr. SEDGWICK remarked once more, that the proposition had two aspects which made it disagreeable to him; the one was to render a man popular to his constituents, the other to render the place ineligible to his competitor.

He thought there was very little danger of an abuse of the power of laying their own wages; gentlemen were generally more inclined to make them moderate than excessive.

The question being put on the proposition, it was carried in the affirmative, twenty-seven for, and twenty against it.

The committee then rose and reported progress, and the House adjourned.

SATURDAY, August 15.

AMENDMENTS TO THE CONSTITUTION.

The House again went into a Committee of the whole on the proposed amendments to the constitution, Mr. BOWDINOT in the chair.

The fourth proposition being under consideration, as follows:

Article 1. Section 9. Between paragraphs two and three insert "no religion shall be established by law, nor shall the equal rights of conscience be infringed."

Mr. SYLVESTER had some doubts of the propriety of the mode of expression used in this paragraph. He apprehended that it was liable to a construction different from what had been made by the committee. He feared it might be thought to have a tendency to abolish religion altogether.

Mr. VINING suggested the propriety of transposing the two members of the sentence.

Mr. GERRY said it would read better if it was, that no religious doctrine shall be established by law.

Mr. SHERMAN thought the amendment altogether unnecessary, inasmuch as Congress had no authority whatever delegated to them by the constitution to make religious establishments; he would, therefore, move to have it struck out.

Mr. CARROLL.—As the rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of governmental hand; and as many sects have concurred

in opinion that they are not well secured under the present constitution, he said he was much in favor of adopting the words. He thought it would tend more towards conciliating the minds of the people to the Government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

Mr. MADISON said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. Whether the words are necessary or not, he did not mean to say, but they had been required by some of the State Conventions, who seemed to entertain an opinion that under the clause of the constitution, which gave power to Congress to make all laws necessary and proper to carry into execution the constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience, and establish a national religion; to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit.

Mr. HUNTINGTON said that he feared, with the gentleman first up on this subject, that the words might be taken in such latitude as to be extremely hurtful to the cause of religion. He understood the amendment to mean what had been expressed by the gentleman from Virginia; but others might find it convenient to put another construction upon it. The ministers of their congregations to the Eastward were maintained by the contributions of those who belonged to their society; the expense of building meeting-houses was contributed in the same manner. These things were regulated by by-laws. If an action was brought before a Federal Court on any of these cases, the person who had neglected to perform his engagements could not be compelled to do it; for a support of ministers, or building of places of worship might be construed into a religious establishment.

By the charter of Rhode Island, no religion could be established by law; he could give a history of the effects of such a regulation; indeed the people were now enjoying the blessed fruits of it. He hoped, therefore, the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

Mr. MADISON thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word national was introduced, it would point the

AUGUST 15, 1789.]

Amendments to the Constitution.

[H. OF R.]

amendment directly to the object it was intended to prevent.

Mr. LIVERMORE was not satisfied with that amendment; but he did not wish them to dwell long on the subject. He thought it would be better if it was altered, and made to read in this manner, that Congress shall make no laws touching religion, or infringing the rights of conscience.

Mr. GERRY did not like the term national, proposed by the gentleman from Virginia, and he hoped it would not be adopted by the House. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution. It had been insisted upon by those who were called antifederalists, that this form of Government consolidated the Union; the honorable gentleman's motion shows that he considers it in the same light. Those who were called antifederalists at that time complained that they had injustice done them by the title, because they were in favor of a Federal Government, and the others were in favor of a national one; the federalists were for ratifying the constitution as it stood, and the others not until amendments were made. Their names then ought not to have been distinguished by federalists and antifederalists, but rats and antirats.

Mr. MADISON withdrew his motion, but observed that the words "no national religion shall be established by law," did not imply that the Government was a national one; the question was then taken on Mr. Livermore's motion, and passed in the affirmative, thirty-one for, and twenty against it.

The next clause of the fourth proposition was taken into consideration, and was as follows: "The freedom of speech and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the Government for redress of grievances, shall not be infringed."

Mr. SEDGWICK submitted to those gentlemen who had contemplated the subject, what effect such an amendment as this would have; he feared it would tend to make them appear trifling in the eyes of their constituents; what, said he, shall we secure the freedom of speech, and think it necessary, at the same time, to allow the right of assembling? If people freely converse together, they must assemble for that purpose; it is a self-evident, unalienable right which the people possess; it is certainly a thing that never would be called in question; it is derogatory to the dignity of the House to descend to such minutiae; he therefore moved to strike out "assemble and."

Mr. BENSON.—The committee who framed this report proceeded on the principle that these rights belonged to the people; they conceived them to be inherent; and all that they meant to provide against was their being infringed by the Government.

Mr. SEDGWICK replied, that if the committee were governed by that general principle, they

might have gone into a very lengthy enumeration of rights; they might have declared that a man should have a right to wear his hat if he pleased; that he might get up when he pleased, and go to bed when he thought proper; but he would ask the gentleman whether he thought it necessary to enter these trifles in a declaration of rights, in a Government where none of them were intended to be infringed.

Mr. TUCKER hoped the words would not be struck out, for he considered them of importance; besides, they were recommended by the States of Virginia and North Carolina, though he noticed that the most material part proposed by those States was omitted, which was, a declaration that the people should have a right to instruct their representatives. He would move to have those words inserted as soon as the motion for striking out was decided.

Mr. GERRY was also against the words being struck out, because he conceived it to be an essential right; it was inserted in the constitutions of several States; and though it had been abused in the year 1786 in Massachusetts, yet that abuse ought not to operate as an argument against the use of it. The people ought to be secure in the peaceable enjoyment of this privilege, and that can only be done by making a declaration to that effect in the constitution.

Mr. PAGE.—The gentleman from Massachusetts, (Mr. SEDGWICK,) who made this motion, objects to the clause, because the right is of so trivial a nature. He supposes it no more essential than whether a man has a right to wear his hat or not; but let me observe to him that such rights have been opposed, and a man has been obliged to pull off his hat when he appeared before the face of authority; people have also been prevented from assembling together on their lawful occasions, therefore it is well to guard against such stretches of authority, by inserting the privilege in the declaration of rights. If the people could be deprived of the power of assembling under any pretext whatsoever, they might be deprived of every other privilege contained in the clause.

Mr. VINING said, if the thing was harmless, and it would tend to gratify the States that had proposed amendments, he should agree to it.

Mr. HARTLEY observed, that it had been asserted in the convention of Pennsylvania, by the friends of the constitution, that all the rights and powers that were not given to the Government were retained by the States and the people thereof. This was also his own opinion; but as four or five States had required to be secured in those rights by an express declaration in the constitution, he was disposed to gratify them; he thought every thing that was not incompatible with the general good ought to be granted, if it would tend to obtain the confidence of the people in the Government; and, upon the whole, he thought these words were as necessary to be inserted in the declaration of rights as most in the clause.

Mr. GERRY said, that his colleague contended

H. of R.]

Amendments to the Constitution.

[August 15, 1789.]

for nothing, if he supposed that the people had a right to consult for the common good, because they could not consult unless they met for the purpose.

Mr. SEDGWICK replied that if they were understood or implied in the word consult, they were utterly unnecessary, and upon that ground he moved to have them struck out.

The question was now put upon Mr. SEDGWICK's motion, and lost by a considerable majority.

Mr. TUCKER then moved to insert these words, "to instruct their Representatives."

Mr. HARTLEY wished the motion had not been made, for gentlemen acquainted with the circumstances of this country, and the history of the country from which we separated, differed exceedingly on this point. The members of the House of Representatives, said he, are chosen for two years, the members of the Senate for six.

According to the principles laid down in the Constitution, it is presumable that the persons elected know the interests and the circumstances of their constituents, and being checked in their determinations by a division of the Legislative power into two branches, there is little danger of error. At least it ought to be supposed that they have the confidence of the people during the period for which they are elected; and if, by misconduct, they forfeit it, their constituents have the power of leaving them out at the expiration of that time—thus they are answerable for the part they have taken in measures that may be contrary to the general wish.

Representation is the principle of our Government; the people ought to have confidence in the honor and integrity of those they send forward to transact their business; their right to instruct them is a problematical subject. We have seen it attended with bad consequences, both in England and America. When the passions of the people are excited, instructions have been resorted to and obtained, to answer party purposes; and although the public opinion is generally respectable, yet at such moments it has been known to be often wrong; and happy is that Government composed of men of firmness and wisdom to discover, and resist popular error.

If, in a small community, where the interests, habits, and manners are neither so numerous or diversified, instructions bind not, what shall we say of instructions to this body? Can it be supposed that the inhabitants of a single district in a State, are better informed with respect to the general interests of the Union, than a select body assembled from every part? Can it be supposed that a part will be more desirous of promoting the good of the whole than the whole will of the part? I apprehend, sir, that Congress will be the best judges of proper measures, and that instructions will never be resorted to but for party purposes, when they will generally contain the prejudices and acrimony of the party, rather than the dictates of honest reason and sound policy.

In England, this question has been considerably agitated. The representatives of some towns in Parliament have acknowledged, and submitted to the binding force of instructions, while the majority have thrown off the shackles with disdain. I would not have this precedent influence our decision; but let the doctrine be tried upon its own merits, and stand or fall as it shall be found to deserve.

It appears to my mind, that the principle of representation is distinct from an agency, which may require written instructions. The great end of meeting is to consult for the common good; but can the common good be discerned without the object is reflected and shown in every light. A local or partial view does not necessarily enable any man to comprehend it clearly; this can only result from an inspection into the aggregate. Instructions viewed in this light will be found to embarrass the best and wisest men. And were all the members to take their seats in order to obey instructions, and those instructions were as various as it is probable they would be, what possibility would there exist of so accommodating each to the other as to produce any act whatever? Perhaps a majority of the whole might not be instructed to agree to any one point, and is it thus the people of the United States propose to form a more perfect union, provide for the common defence, and promote the general welfare?

Sir, I have known within my own time so many inconveniences and real evils arise from adopting the popular opinions on the moment, that although I respect them as much as any man, I hope this Government will particularly guard against them, at least that they will not bind themselves by a constitutional act, and by oath, to submit to their influence; if they do, the great object which this Government has been established to attain, will inevitably elude our grasp on the uncertain and veering winds of popular commotion.

Mr. PAGE.—The gentleman from Pennsylvania tells you, that in England this principle is doubted; how far this is consonant with the nature of the Government I will not pretend to say; but I am not astonished to find that the administrators of a monarchical Government are unassailable by the weak voice of the people; but under a democracy, whose great end is to form a code of laws congenial with the public sentiment, the popular opinion ought to be collected and attended to. Our present object is, I presume, to secure to our constituents and to posterity these inestimable rights. Our Government is derived from the people, of consequence the people have a right to consult for the common good; but to what end will this be done, if they have not the power of instructing their representatives? Instruction and representation in a republic appear to me to be inseparably connected; but were I the subject of a monarch, I should doubt whether the public good did not depend more upon the prince's will than the will of the people. I should

AUGUST 15, 1789.]

Amendments to the Constitution.

[H. OF R.]

dread a popular assembly consulting for the public good, because, under its influence, commotions and tumults might arise that would shake the foundation of the monarch's throne, and make the empire tremble in expectation. The people of England have submitted the crown to the Hanover family, and have rejected the Stuarts. If instructions upon such a revolution were considered binding, it is difficult to know what would have been the effects. It might be well, therefore, to have the doctrine exploded from that kingdom; but it will not be advanced as a substantial reason in favor of our treading in the same steps.

The honorable gentleman has said, that when once the people have chosen a representative, they must rely on his integrity and judgment during the period for which he is elected. I think, sir, to doubt the authority of the people to instruct their representatives, will give them just cause to be alarmed for their fate. I look upon it as a dangerous doctrine, subversive of the great end for which the United States have confederated. Every friend of mankind, every well-wisher of his country, will be desirous of obtaining the sense of the people on every occasion of magnitude; but how can this be so well expressed as in instructions to their representatives? I hope, therefore, that gentlemen will not oppose the insertion of it in this part of the report.

MR. CLEMER.—I hope the amendment will not be adopted; but if our constituents choose to instruct us, that they may be left at liberty to do so. Do gentlemen foresee the extent of these words? If they have a constitutional right to instruct us, it infers that we are bound by those instructions; and as we ought not to decide constitutional questions by implication, I presume we shall be called upon to go further, and expressly declare the members of the Legislature bound by the instruction of their constituents. This is a most dangerous principle, utterly destructive of all ideas of an independent and deliberative body, which are essential requisites in the Legislatures of free Governments; they prevent men of abilities and experience from rendering those services to the community that are in their power, destroying the object contemplated by establishing an efficient General Government, and rendering Congress a mere passive machine.

MR. SHERMAN.—It appears to me, that the words are calculated to mislead the people, by conveying an idea that they have a right to control the debates of the Legislature. This cannot be admitted to be just, because it would destroy the object of their meeting. I think, when the people have chosen a representative, it is his duty to meet others from the different parts of the Union, and consult, and agree with them to such acts as are for the general benefit of the whole community. If they were to be guided by instructions, there would be no use in deliberation; all that a man would have to do, would be to produce his instruc-

tions, and lay them on the table, and let them speak for him. From hence I think it may be fairly inferred, that the right of the people to consult for the common good can go no further than to petition the Legislature, or apply for a redress of grievances. It is the duty of a good representative to inquire what measures are most likely to promote the general welfare, and, after he has discovered them, to give them his support. Should his instructions, therefore, coincide with his ideas on any measure, they would be unnecessary; if they were contrary to the conviction of his own mind, he must be bound by every principle of justice to disregard them.

MR. JACKSON was in favor of the right of the people to assemble and consult for the common good; it had been used in this country as one of the best checks on the British Legislature in their unjustifiable attempts to tax the colonies without their consent. America had no representatives in the British Parliament, therefore they could instruct none, yet they exercised the power of consultation to a good effect. He begged gentlemen to consider the dangerous tendency of establishing such a doctrine; it would necessarily drive the house into a number of factions. There might be different instructions from every State, and the representation from each State would be a faction to support its own measures.

If we establish this as a right, we shall be bound by those instructions; now, I am willing to leave both the people and representatives to their own discretion on this subject. Let the people consult and give their opinion; let the representative judge of it; and if it is just, let him govern himself by it as a good member ought to do; but if it is otherwise, let him have it in his power to reject their advice.

What may be the consequence of binding a man to vote in all cases according to the will of others? He is to decide upon a constitutional point, and on this question his conscience is bound by the obligation of a solemn oath; you now involve him in a serious dilemma. If he votes according to his conscience, he decides against his instructions; but in deciding against his instructions, he commits a breach of the constitution, by infringing the prerogative of the people, secured to them by this declaration. In short, it will give rise to such a variety of absurdities and inconsistencies, as no prudent Legislature would wish to involve themselves in.

MR. GERRY.—By the checks provided in the constitution, we have good grounds to believe that the very framers of it conceived that the Government would be liable to mal-administration, and I presume that the gentlemen of this House do not mean to arrogate to themselves more perfection than human nature has as yet been found to be capable of; if they do not, they will admit an additional check against abuses which this, like every other Government, is subject to. Instruction from the people will furnish this in a considerable degree.

H. OF R.]

Amendments to the Constitution.

[AUGUST 15, 1789.]

It has been said that the amendment proposed by the honorable gentleman from South Carolina (Mr. TUCKER) determines this point, "that the people can bind their representatives to follow their instructions." I do not conceive that this necessarily follows. I think the representative, notwithstanding the insertion of these words, would be at liberty to act as he pleased; if he declined to pursue such measures as he was directed to attain, the people would have a right to refuse him their suffrages at a future election.

Now, though I do not believe the amendment would bind the representatives to obey the instructions, yet I think the people have a right both to instruct and bind them. Do gentlemen conceive that on any occasion instructions would be so general as to proceed from all our constituents? If they do, it is the sovereign will; for gentlemen will not contend that the sovereign will presides in the Legislature. The friends and patrons of this constitution have always declared that the sovereignty resides in the people, and that they do not part with it on any occasion; to say the sovereignty vests in the people, and that they have not a right to instruct and control their representatives, is absurd to the last degree. They must either give up their principle, or grant that the people have a right to exercise their sovereignty to control the whole Government, as well as this branch of it. But the amendment does not carry the principle to such an extent, it only declares the right of the people to send instructions; the representative will, if he thinks proper, communicate his instructions to the House, but how far they shall operate on his conduct, he will judge for himself.

The honorable gentleman from Georgia (Mr. JACKSON) supposes that instructions will tend to generate factions in this House; but he did not see how it could have that effect, any more than the freedom of debate had. If the representative entertains the same opinion with his constituents, he will decide with them in favor of the measure; if other gentlemen, who are not instructed on this point, are convinced by argument that the measure is proper, they will also vote with them; consequently, the influence of debate and of instruction is the same.

The gentleman says further, that the people have the right of instructing their representatives; if so, why not declare it? Does he mean that it shall lie dormant and never be exercised? If so, it will be a right of no utility. But much good may result from a declaration in the constitution that they possess this privilege; the people will be encouraged to come forward with their instructions, which will form a fund of useful information for the Legislature. We cannot, I apprehend, be too well informed of the true state, condition, and sentiment of our constituents, and perhaps this is the best mode in our power of obtaining information. I hope we shall never shut our ears against that information which is to be derived from the petitions

and instructions of our constituents. I hope we shall never presume to think that all the wisdom of this country is concentrated within the walls of this House. Men, unambitious of distinctions from their fellow-citizens, remain within their own domestic walk, unheard of and unseen, possessing all the advantages resulting from a watchful observance of public men and public measures, whose voice, if we would descend to listen to it, would give us knowledge superior to what could be acquired amidst the cares and bustles of a public life; let us then adopt the amendment, and encourage the diffident to enrich our stock of knowledge with the treasure of their remarks and observations.

MR. MADISON.—I think the committee acted prudently in omitting to insert these words in the report they have brought forward; if, unfortunately, the attempt of proposing amendments should prove abortive, it will not arise from the want of a disposition in the friends of the constitution to do what is right with respect to securing the rights and privileges of the people of America, but from the difficulties arising from discussing and proposing abstract propositions, of which the judgment may not be convinced. I venture to say, that if we confine ourselves to an enumeration of simple, acknowledged principles, the ratification will meet with but little difficulty. Amendments of a doubtful nature will have a tendency to prejudice the whole system; the proposition now suggested partakes highly of this nature. It is doubted by many gentlemen here; it has been objected to in intelligent publications throughout the Union; it is doubted by many members of the State Legislatures. In one sense this declaration is true, in many others it is certainly not true; in the sense in which it is true, we have asserted the right sufficiently in what we have done; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this Government; the people may therefore publicly address their representatives may privately advise them, or declare their sentiments by petition to the whole body; in all these ways they may communicate their will. If gentlemen mean to go further, and to say that the people have a right to instruct their representatives in such a sense as that the delegates are obliged to conform to those instructions, the declaration is not true. Suppose they instruct a representative, by his vote, to violate the constitution; is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good; is he obliged to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do?

AUGUST 15, 1789.]

Amendments to the Constitution.

[H. OF R.]

Suppose he refuses, will his vote be the less valid, or the community be disengaged from that obedience which is due to the laws of the Union? If his vote must inevitably have the same effect, what sort of a right is this in the constitution, to instruct a representative who has a right to disregard the order, if he pleases? In this sense the right does not exist, in the other sense it does exist, and is provided largely for.

The honorable gentleman from Massachusetts asks if the sovereignty is not with the people at large. Does he infer that the people can, in detached bodies, contravene an act established by the whole people? My idea of the sovereignty of the people is, that the people can change the constitution if they please; but while the constitution exists, they must conform themselves to its dictates. But I do not believe that the inhabitants of any district can speak the voice of the people; so far from it, their ideas may contradict the sense of the whole people; hence the consequence that instructions are binding on the representative is of a doubtful, if not of a dangerous nature. I do not conceive, therefore, that it is necessary to agree to the proposition now made; so far as any real good is to arise from it, so far that real good is provided for; so far as it is of a doubtful nature, so far it obliges us to run the risk of losing the whole system.

Mr. SMITH, of South Carolina.—I am opposed to this motion, because I conceive it will operate as a partial inconvenience to the more distant States. If every member is to be bound by instructions how to vote, what are gentlemen from the extremities of the continent to do? Members from the neighboring States can obtain their instructions earlier than those from the Southern ones, and I presume that particular instructions will be necessary for particular measures; of consequence, we vote perhaps against instructions on their way to us, or we must decline voting at all. But what is the necessity of having a numerous representation? One member from a State can receive the instructions, and by his vote answer all the purposes of many, provided his vote is allowed to count for the proportion the State ought to send; in this way the business might be done at a less expense than having one or two hundred members in the House, which had been strongly contended for yesterday.

Mr. STONE.—I think the clause would change the Government entirely; instead of being a Government founded upon representation, it would be a democracy of singular properties.

I differ from the gentleman from Virginia, (Mr. MADISON,) if he thinks this clause would not bind the representative; in my opinion, it would bind him effectually, and I venture to assert, without diffidence, that any law passed by the Legislature would be of no force, if a majority of the members of this House were instructed to the contrary, provided the amendment became part of the constitution. What

would follow from this? Instead of looking in the code of laws passed by Congress, your Judiciary would have to collect and examine the instructions from the various parts of the Union. It follows very clearly from hence, that the Government would be altered from a representative one to a democracy, wherein all laws are made immediately by the voice of the people.

This is a power not to be found in any part of the earth except among the Swiss cantons; there the body of the people vote upon the laws, and give instructions to their delegates. But here we have a different form of Government; the people at large are not authorized under it to vote upon the law, nor did I ever hear that any man required it. Why, then, are we called upon to propose amendments subversive of the principles of the constitution, which were never desired?

Several members now called for the question, and the Chairman being about to put the same:

Mr. GERRY.—Gentlemen seem in a great hurry to get this business through. I think, Mr. Chairman, it requires a further discussion; for my part, I had rather do less business and do it well, than precipitate measures before they are fully understood.

The honorable gentleman from Virginia (Mr. MADISON) stated, that if the proposed amendments are defeated, it will be by the delay attending the discussion of doubtful propositions; and he declares this to partake of that quality. It is natural, sir, for us to be fond of our own work. We do not like to see it disfigured by other hands. That honorable gentleman brought forward a string of propositions; among them was the clause now proposed to be amended: he is no doubt ready for the question, and determined not to admit what we think an improvement. The gentlemen who were on the committee, and brought in the report, have considered the subject, and are also ripe for a decision. But other gentlemen may crave a like indulgence. Is not the report before us for deliberation and discussion, and to obtain the sense of the House upon it; and will not gentlemen allow us a day or two for these purposes, after they have forced us to proceed upon them at this time? I appeal to their candor and good sense on the occasion, and am sure not to be refused; and I must inform them now, that they may not be surprised hereafter, that I wish all the amendments proposed by the respective States to be considered. Gentlemen say it is necessary to finish the subject, in order to reconcile a number of our fellow-citizens to the Government. If this is their principle, they ought to consider the wishes and intentions which the convention has expressed for them; if they do this, they will find that they expect and wish for the declaration proposed by the honorable gentleman over the way, (Mr. TUCKER,) and, of consequence, they ought to agree to it; and why it, with others recommended in the same way, were not reported, I cannot pre-

H. OF R.]

Amendments to the Constitution.

[AUGUST 15, 1789.]

tend to say; the committee know this best themselves.

The honorable gentleman near me (Mr. STONE) says, that the laws passed contrary to instruction will be nugatory. And other gentlemen ask, if their constituents instruct them to violate the constitution, whether they must do it. Sir, does not the constitution declare that all laws passed by Congress are paramount to the laws and constitutions of the several States; if our decrees are of such force as to set aside the State laws and constitutions, certainly they may be repugnant to any instructions whatever, without being injured thereby. But can we conceive that our constituents would be so absurd as to instruct us to violate our oath, and act directly contrary to the principles of a Government ordained by themselves? We must look upon them to be absolutely abandoned and false to their own interests, to suppose them capable of giving such instructions.

If this amendment is introduced into the constitution, I do not think we shall be much troubled with instructions; a knowledge of the right will operate to check a spirit that would render instruction necessary.

The honorable gentleman from Virginia asked, will not the affirmative of a member who votes repugnant to his instructions bind the community as much as the votes of those who conform? There is no doubt, sir, but it will; but does this tend to show that the constituent has no right to instruct? Surely not. I admit, sir, that instructions contrary to the constitution ought not to bind, though the sovereignty resides in the people. The honorable gentleman acknowledges that the sovereignty vests there; if so, it may exercise its will in any case not inconsistent with a previous contract. The same gentleman asks if we are to give the power to the people in detached bodies to contravene the Government while it exists. Certainly not; nor does the proposed proposition extend to that point; it is only intended to open for them a convenient mode in which they may convey their sense to their agents. The gentleman therefore takes for granted what is inadmissible, that Congress will always be doing illegal things, and make it necessary for the sovereign to declare its pleasure.

He says the people have a right to alter the constitution, but they have no right to oppose the Government. If, while the Government exists, they have no right to control it, it appears they have divested themselves of the sovereignty over the constitution. Therefore, our language, with our principles, must change, and we ought to say that the sovereignty existed in the people previous to the establishment of this Government. This will be ground for alarm indeed, if it is true; but I trust, sir, too much to the good sense of my fellow-citizens ever to believe that the doctrine will generally obtain in this country of freedom.

Mr. VINING.—If, Mr. Chairman, there appears on one side to great an urgency to des-

patch this business, there appears on the other an unnecessary delay and procrastination equally improper and unpardonable. I think this business has been already well considered by the House, and every gentleman in it; however, I am not for an unseemly expedition.

The gentleman last up has insinuated a reflection upon the committee for not reporting all the amendments proposed by some of the State conventions. I can assign a reason for this. The committee conceived some of them superfluous or dangerous, and found many of them so contradictory that it was impossible to make any thing of them; and this is a circumstance the gentleman cannot pretend ignorance of.

Is it not inconsistent in that honorable member to complain of hurry, when he comes day after day reiterating the same train of arguments, and demanding the attention of this body by rising six or seven times on a question? I wish, sir, this subject discussed coolly and dispassionately, but hope we shall have no more reiterations or tedious discussions; let gentlemen try to expedite public business, and their arguments will be conducted in a laconic and consistent manner. As to the business of instruction, I look upon it inconsistent with the general good. Suppose our constituents were to instruct us to make paper money; no gentleman pretends to say it would be unconstitutional, yet every honest mind must shudder at the thought. How can we then assert that instructions ought to bind us in all cases not contrary to the constitution?

Mr. LIVERMORE was not very anxious whether the words were inserted or not, but he had a great deal of doubt on the meaning of this whole amendment; it provides that the people may meet and consult for the common good. Does this mean a part of the people in a township or district, or does it mean the representatives in the State Legislatures? If it means the latter, there is no occasion for a provision that the Legislature may instruct the members of this body.

In some States the representatives are chosen by districts. In such case, perhaps, the instructions may be considered as coming from the district; but in other States, each representative is chosen by the whole people. In New Hampshire it is the case; the instructions of any particular place would have but little weight, but a legislative instruction would have considerable influence upon each representative. If, therefore, the words mean that the Legislature may instruct, he presumed it would have considerable effect, though he did not believe it binding. Indeed, he was inclined to pay a deference to any information he might receive from any number of gentlemen, even by a private letter; but as for full binding force, no instructions contained that quality. They could not, nor ought not to have it, because different parties pursue different measures; and it might be expedient, nay, absolutely necessary, to sacrifice them in mutual concessions.

AUGUST 15, 1789.]

Amendments to the Constitution.

[H. OF R.]

The doctrine of instructions would hold better in England than here, because the boroughs and corporations might have an interest to pursue totally immaterial to the rest of the kingdom; in that case, it would be prudent to instruct their members in Parliament.

Mr. GERRY wished the constitution amended without his having any hand in it; but if he must interfere, he would do his duty. The honorable gentleman from Delaware had given him an example of moderation and laconic and consistent debate that he meant to follow; and would just observe to the worthy gentleman last up, that several States had proposed the amendment, and among the rest New Hampshire.

There was one remark which escaped him, when he was up before. The gentleman from Maryland (Mr. STONE) had said that the amendment would change the nature of the Government, and make it a democracy. Now he had always heard that it was a democracy; but perhaps he was misled, and the honorable gentleman was right in distinguishing it by some other appellation; perhaps an aristocracy was a term better adapted to it.

Mr. SEDGWICK opposed the idea of the gentleman from New Hampshire, that the State Legislature had the power of instructing the members of this House; he looked upon it as a subordination of the rights of the people to admit such an authority. We stand not here, said he, the representatives of the State Legislatures, as under the former Congress, but as the representatives of the great body of the people. The sovereignty, the independence, and the rights of the States are intended to be guarded by the Senate; if we are to be viewed in any other light, the greatest security the people have for their rights and privileges is destroyed.

But with respect to instructions, it is well worthy of consideration how they are to be procured. It is not the opinion of an individual that is to control my conduct; I consider myself as the representative of the whole Union. An individual may give me information, but his sentiments may be in opposition to the sense of the majority of the people. If instructions are to be of any efficacy, they must speak the sense of the majority of the people, at least of a State. In a State so large as Massachusetts it will behoove gentlemen to consider how the sense of the majority of the freemen is to be obtained and communicated. Let us take care to avoid the insertion of crude and indigested propositions, more likely to produce acrimony than that spirit of harmony which we ought to cultivate.

Mr. LIVERMORE said that he did not understand the honorable gentleman, or was not understood by him; he did not presume peremptorily to say what degree of influence the legislative instructions would have on a representative. He knew it was not the thing in contemplation here; and what he had said re-

spected only the influence it would have on his private judgment.

Mr. AMES said there would be a very great inconvenience attending the establishment of the doctrine contended for by his colleague. Those States which had selected their members by districts would have no right to give them instructions, consequently the members ought to withdraw; in which case the House might be reduced below a majority, and not be able, according to the constitution, to do any business at all.

According to the doctrine of the gentleman from New Hampshire, one part of the Government would be annihilated; for of what avail is it that the people have the appointment of a representative, if he is to pay obedience to the dictates of another body?

Several members now rose, and called for the question.

Mr. PAGE was sorry to see gentlemen so impatient; the more so, as he saw there was very little attention paid to any thing that was said; but he would express his sentiments if he was only heard by the Chair. He discovered clearly, notwithstanding what had been observed by the most ingenious supporters of the opposition, that there was an absolute necessity for adopting the amendment. It was strictly compatible with the spirit and the nature of the Government; all power vests in the people of the United States; it is, therefore, a Government of the people, a democracy. If it were consistent with the peace and tranquillity of the inhabitants, every freeman would have a right to come and give his vote upon the law; but, inasmuch as this cannot be done, by reason of the extent of territory, and some other causes, the people have agreed that their representatives shall exercise a part of their authority. To pretend to refuse them the power of instructing their agents, appears to me to deny them a right. One gentleman asks how the instructions are to be collected. Many parts of this country have been in the practice of instructing their representatives; they found no difficulty in communicating their sense. Another gentleman asks if they were to instruct us to make paper money, what we would do? I would tell them, said he, it was unconstitutional; alter that, and we will consider on the point. Unless laws are made satisfactory to the people, they will lose their support, they will be abused or done away; this tends to destroy the efficiency of the Government.

It is the sense of several of the conventions that this amendment should take place; I think it my duty to support it, and fear it will spread an alarm among our constituents if we decline to do it.

Mr. WADSWORTH.—Instructions have frequently been given to the representatives of the United States; but the people did not claim as a right that they should have any obligation up on the representatives; it is not right that they should. In troublesome times, designing

H. OF R.]

Amendments to the Constitution.

[AUGUST 15, 1789.]

men have drawn the people to instruct the representatives to their harm; the representatives have, on such occasions, refused to comply with their instructions. I have known, myself, that they have been disobeyed, and yet the representative was not brought to account for it; on the contrary, he was caressed and re-elected, while those who have obeyed them, contrary to their private sentiments, have ever after been despised for it. Now, if people considered it an inherent right in them to instruct their representatives, they would have undoubtedly punished the violation of them. I have no idea of instructions, unless they are obeyed; a discretionary power is incompatible with them.

The honorable gentleman who was up last says, if he were instructed to make paper money, he would tell his constituents it was unconstitutional. I believe that is not the case, for this body would have a right to make paper money; but if my constituents were to instruct me to vote for such a measure, I would disobey them, let the consequence be what it would.

MR. SUMTER.—The honorable gentlemen who are opposed to the notion of my colleague, do not treat it fairly. They suppose that it is meant to bind the representative to conform to his instructions. The mover of this question, I presume to say, has no such thing in idea. That they shall notice them and obey them, as far as is consistent and proper, may be very just; perhaps they ought to produce them to the House, and let them have as much influence as they deserve; nothing further, I believe, is contended for.

I rose on this occasion, not so much to make any observations upon the point immediately under consideration, as to beg the committee to consider the consequences that may result from an undue precipitancy and hurry. Nothing can distress me more than to be obliged to notice what I conceive to be somewhat improper in the conduct of so respectable a body. Gentlemen will reflect how difficult it is to remove error when once the passions are engaged in the discussion; temper and coolness are necessary to complete what must be the work of time. It cannot be denied but that the present constitution is imperfect; we must, therefore, take time to improve it. If gentlemen are pressed for want of time, and are disposed to adjourn the session of Congress at a very early period, we had better drop the subject of amendments, and leave it until we have more leisure to consider and do the business effectually. For my part, I would rather sit till this day twelvemonth, than have this all-important subject inconsiderately passed over. The people have already complained that the adoption of the constitution was done in too hasty a manner; what will they say of us if we press the amendments with so much haste?

MR. BURKE.—It has been asserted, Mr. Chairman, that the people of America do not require this right. I beg leave to ask the gen-

tleman from Massachusetts, whether the constitution of that State does not recognise that right, and the gentleman from Maryland, whether their declaration of rights does not expressly secure it to the inhabitants of that State? These circumstances, added to what has been proposed by the State conventions as amendments to this constitution, pretty plainly declare the sense of the people to be in favor of securing to themselves and to their posterity a right of this nature.

MR. SENEY said that the declaration of rights prefixed to the constitution of Maryland secured to every man a right of petitioning the Legislature for a redress of grievances, in a peaceable and orderly manner.

MR. BURKE.—I am not positive with respect to the particular expression in the declaration of rights of the people of Maryland, but the constitutions of Massachusetts, Pennsylvania, and North Carolina, all of them recognise, in express terms, the right of the people to give instruction to their representatives. I do not mean to insist particularly upon this amendment; but I am very well satisfied that those that are reported and likely to be adopted by this House are very far from giving satisfaction to our constituents; they are not those solid and substantial amendments which the people expect; they are little better than whip-syllabub, frothy and full of wind, formed only to please the palate; or they are like a tub thrown out to a whale, to secure the freight of the ship and its peaceable voyage. In my judgment, the people will not be gratified by the mode we have pursued in bringing them forward. There was a committee of eleven appointed; and out of the number I think there were five who were members of the convention that formed the constitution. Such gentlemen, having already given their opinion with respect to the perfection of the work, may be thought improper agents to bring forward amendments. Upon the whole, I think it will be found that we have done nothing but lose our time, and that it will be better to drop the subject now, and proceed to the organization of the Government.

MR. SINICKSON inquired of Mr. Chairman what was the question before the committee, for really the debate had become so desultory, as to induce him to think it was lost sight of altogether.

MR. LAWRENCE was averse to entering on the business at first; but since they had proceeded so far, he hoped they would finish it. He said, if gentlemen would confine themselves to the question when they were speaking, that the business might be done in a more agreeable manner. He was against the amendment proposed by the gentleman from South Carolina, (MR. TUCKER,) because every member on this floor ought to consider himself the representative of the whole Union, and not of the particular district which had chosen him; as their decisions were to bind every individual of the confederated States, it was wrong to be

AUGUST 15, 1789.]

Amendments to the Constitution.

H. OF R.

guided by the voice of a single district, whose interests might happen to clash with those of the general good; and unless instructions were to be considered as binding, they were altogether superfluous.

Mr. MADISON was unwilling to take up any more of the time of the committee; but, on the other hand, he was not willing to be silent after the charges that had been brought against the committee, and the gentleman who introduced the amendments, by the honorable members on each side of him, (Messrs. SUMTER and BURKE.) Those gentlemen say that we are precipitating the business, and insinuate that we are not acting with candor. I appeal to the gentlemen who have heard the voice of their country, to those who have attended the debates of the State conventions, whether the amendments now proposed are not those most strenuously required by the opponents to the constitution? It was wished that some security should be given for those great and essential rights which they had been taught to believe were in danger. I concurred, in the convention of Virginia, with those gentlemen, so far as to agree to a declaration of those rights which corresponded with my own judgment, and the other alterations which I had the honor to bring forward before the present Congress. I appeal to the gentlemen on this floor who are desirous of amending the constitution, whether these proposed are not compatible with what are required by our constituents? Have not the people been told that the rights of conscience, the freedom of speech, the liberty of the press, and trial by jury, were in jeopardy? that they ought not to adopt the constitution until those important rights were secured to them?

But while I approve of these amendments, I should oppose the consideration at this time of such as are likely to change the principles of the Government, or that are of a doubtful nature; because I apprehend there is little prospect of obtaining the consent of two-thirds of both Houses of Congress, and three-fourths of the State Legislatures, to ratify propositions of this kind; therefore, as a friend to what is attainable, I would limit it to the plain, simple, and important security that has been required. If I were inclined to make no alteration in the constitution, I would bring forward such amendments as were of a dubious cast, in order to have the whole rejected.

Mr. BURKE never entertained an idea of charging gentlemen with the want of candor; but he would appeal to any man of sense and candor, whether the amendments contained in the report were any thing like the amendments required by the States of New York, Virginia, New Hampshire, and Carolina; and having these amendments in his hand, he turned to them to show the difference, concluding that all the important amendments were omitted in the report.

Mr. SMITH, of South Carolina, understood his colleague, who had just sat down, to have

asserted that the amendment under consideration was contained in the constitution of the State of South Carolina: this was not the fact.

Mr. BURKE said he mentioned the State of North Carolina, and there it was inserted in express terms.

The question was now called for from several parts of the House; but a desultory conversation took place before the question was put. At length the call becoming general, it was stated from the chair, and determined in the negative, 10 rising in favor of it, and 41 against it.

The question was now taken on the second clause of the fourth proposition, as originally reported and agreed to.

Mr. AMES moved the committee to rise and report progress; which being agreed to,

Mr. SPEAKER having resumed the chair,

Mr. AMES moved to discharge the committee from any further proceeding. He was led to make the motion from two considerations: first, that as the committee were not restrained in their discussions, a great deal of time was consumed in unnecessary debate; and, second, that as the constitution required two-thirds of the House to acquiesce in amendments, the decisions of the committee, by a simple majority, might be set aside for the want of the constitutional number to support them in the House. He further observed, that it might have an evil influence if alterations agreed to in committee were not adopted by the House.

Mr. SMITH, of South Carolina, was in favor of the motion.

Mr. GERRY thought that the object of the motion was to prevent such a thorough discussion of the business as the nature of it demanded. He called upon gentlemen to recollect the consistency of his honorable colleague, who had proposed to refer the subject to a select committee, lest an open and full examination should lay bare the muscles and sinews of the constitution. He had succeeded on that occasion, and the business was put into the hands of a select committee. He now proposes to curtail the debate, because gentlemen will not swallow the propositions as they stand, when their judgment and their duty require to have them improved. Will this House, said he, agree that an important subject like this shall have less consideration than the most trifling business yet come before us? I hope they will not. If they are tired of it, let it be postponed until another session, when it can be attended to with leisure and good temper. Gentlemen now feel the weather warm, and the subject is warm; no wonder it produces some degree of heat. Perhaps, as our next will be a winter session, we may go through more coolly and dispassionately.

Mr. SEDGWICK seconded Mr. AMES's motion, thinking there was little probability of getting through with the business, if gentlemen were disposed to offer motions, and dwell long upon them in committee, when there was no likelihood they would meet the approbation of

H. OF R.]

Amendments to the Constitution.

[AUGUST 17, 1789.]

two-thirds of both Houses, and three-fourths of the State Legislatures.

Mr. GERRY moved to call the yeas and nays on the motion.

Mr. PAGE begged gentlemen to consider that the motion tended to deprive the members of that freedom of debate which they had heretofore been indulged in, and prevented the Speaker from giving his sentiments. He was sorry to see this hurry, and hoped the subject would be fairly treated, otherwise the people might think they were unjustly dealt by. They would have a right to suppose, with the honorable gentleman from Carolina, (Mr. BURKE,) that we meant nothing more than to throw out a tub to the whale.

Mr. BURKE would oppose the motion, and join in calling the yeas and nays, because its object must be to preclude debate. He was certain the subject was so variegated, and at the same time so important, that it could not be thoroughly discussed in any other manner than in a Committee of the whole; and unless it was discussed in a satisfactory manner, he apprehended it would occasion a great deal of mischief. He said the people knew, and were sensible, that in ratifying the present constitution, they parted with their liberties; but it was under a hope that they would get them back again. Whether this was to be the case or not, he left it to time to discover, but the spirit which now seemed to prevail in the House was no favorable omen. He begged gentlemen to treat the subject with fairness and candor, and not depart from their usual mode of doing business.

Mr. SMITH, of South Carolina, had said he would support the motion, under an impression that it was useless to carry a measure through the committee, with a small majority, which was unlikely to meet the approbation of two-thirds of the House; but as gentlemen appeared so desirous of pursuing the common routine of doing business, he would withdraw his support.

Mr. TUCKER was in hopes the honorable mover would have seen the impropriety of his motion, and have withdrawn it; but as he had not, he would presume to ask him upon what principle it was founded? Is it to precipitate the business, and prevent an investigation? or is it because the committee have spent some time on it, and made no progress? He thought the latter was not the case, because the committee had proceeded as far in it as could reasonably be expected for the time. The gentleman says he is apprehensive it may do harm to have propositions agreed to in committee, and rejected by the House. Certainly there is no foundation for this apprehension, or the clause in the constitution requiring the consent of two-thirds of the Legislature to amendments is formed on wrong principles. If the propositions are reasonable in themselves, they ought to be admitted; but if they are improper, they ought to be rejected. We would not presume to prevent our constituents from contemplating the subject in their own mind.

Is this haste produced by a desire to adjourn? He was as desirous of adjourning as any member, but he would not sacrifice the duty he owed the public to his own private convenience.

Mr. LIVERMORE hoped the gentleman would withdraw his motion, because it would have a disagreeable aspect to leave the business in the unfinished state it now stood. He thought it had better been altogether let alone.

Mr. AMES withdrew his motion, and laid another on the table, requiring two-thirds of the committee to carry a question; and, after some desultory conversation,

The House adjourned.

MONDAY, August 17.

AMENDMENTS TO THE CONSTITUTION.

The House again resolved itself into a committee, Mr. BOWDNOT in the chair, on the proposed amendments to the constitution. The third clause of the fourth proposition in the report was taken into consideration, being as follows: "A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed; but no person religiously scrupulous shall be compelled to bear arms."

Mr. GERRY.—This declaration of rights, I take it, is intended to secure the people against the mal-administration of the Government; if we could suppose that, in all cases, the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now, I am apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

What, sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty. Now, it must be evident, that, under this provision, together with their other powers, Congress could take such measures with respect to a militia, as to make a standing army necessary. Whenever Governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins. This was actually done by Great Britain at the commencement of the late revolution. They used every means in their power to prevent the establishment of an effective militia to the eastward. The Assembly of Massachusetts, seeing the rapid progress that administration were making to divest them of their inherent privileges, endeavored to counteract them by the organization of the militia; but they were always defeated by the influence of the Crown.

Mr. SENEX wished to know what question there was before the committee, in order to ascertain the point upon which the gentleman was speaking.

Mr. GERRY replied that he meant to make a motion, as he disapproved of the words as they

AUGUST 17, 1789.]

Amendments to the Constitution.

[H. or R.]

stood. He then proceeded. No attempts that they made were successful, until they engaged in the struggle which emancipated them at once from their thralldom. Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provision on this head. For this reason, he wished the words to be altered so as to be confined to persons belonging to a religious sect scrupulous of bearing arms.

Mr. JACKSON did not expect that all the people of the United States would turn Quakers or Moravians; consequently, one part would have to defend the other in case of invasion. Now this, in his opinion, was unjust, unless the constitution secured an equivalent: for this reason he moved to amend the clause, by inserting at the end of it, "upon paying an equivalent, to be established by law."

Mr. SMITH, of South Carolina, inquired what were the words used by the conventions respecting this amendment. If the gentleman would conform to what was proposed by Virginia and Carolina, he would second him. He thought they were to be excused provided they found a substitute.

Mr. JACKSON was willing to accommodate. He thought the expression was, "No one, religiously scrupulous of bearing arms, shall be compelled to render military service, in person, upon paying an equivalent."

Mr. SHERMAN conceived it difficult to modify the clause and make it better. It is well known that those who are religiously scrupulous of bearing arms, are equally scrupulous of getting substitutes or paying an equivalent. Many of them would rather die than do either one or the other; but he did not see an absolute necessity for a clause of this kind. We do not live under an arbitrary Government, said he, and the States, respectively, will have the government of the militia, unless when called into actual service; besides, it would not do to alter it so as to exclude the whole of any sect, because there are men amongst the Quakers who will turn out, notwithstanding the religious principles of the society, and defend the cause of their country. Certainly it will be improper to prevent the exercise of such favorable dispositions, at least whilst it is the practice of nations to determine their contests by the slaughter of their citizens and subjects.

Mr. VINING hoped the clause would be suffered to remain as it stood, because he saw no use in it if it was amended so as to compel a man to find a substitute, which, with respect to the Government, was the same as if the person himself turned out to fight.

Mr. STONE inquired what the words "religiously scrupulous" had reference to: was it of bearing arms? If it was, it ought so to be expressed.

Mr. BENSON moved to have the words "but no person religiously scrupulous shall be compelled to bear arms," struck out. He would always leave it to the benevolence of the Legis-

lature, for, modify it as you please, it will be impossible to express it in such a manner as to clear it from ambiguity. No man can claim this indulgence of right. It may be a religious persuasion, but it is no natural right, and therefore ought to be left to the discretion of the Government. If this stands part of the constitution, it will be a question before the Judiciary on every regulation you make with respect to the organization of the militia, whether it comports with this declaration or not. It is extremely injudicious to intermix matters of doubt with fundamentals.

I have no reason to believe but the Legislature will always possess humanity enough to indulge this class of citizens in a matter they are so desirous of; but they ought to be left to their discretion.

The motion for striking out the whole clause being seconded, was put, and decided in the negative—22 members voting for it, and 24 against it.

Mr. GERRY objected to the first part of the clause, on account of the uncertainty with which it is expressed. A well regulated militia being the best security of a free State, admitted an idea that a standing army was a secondary one. It ought to read, "a well regulated militia, trained to arms;" in which case it would become the duty of the Government to provide this security, and furnish a greater certainty of its being done.

Mr. GERRY's motion not being seconded, the question was put on the clause as reported; which being adopted,

Mr. BURKE proposed to add to the clause just agreed to, an amendment to the following effect: "A standing army of regular troops in time of peace is dangerous to public liberty, and such shall not be raised or kept up in time of peace but from necessity, and for the security of the people, nor then without the consent of two-thirds of the members present of both Houses; and in all cases the military shall be subordinate to the civil authority." This being seconded,

Mr. VINING asked whether this was to be considered as an addition to the last clause, or an amendment by itself. If the former, he would remind the gentleman the clause was decided; if the latter, it was improper to introduce new matter, as the House had referred the report specially to the Committee of the whole.

Mr. BURKE feared that, what with being trammelled in rules, and the apparent disposition of the committee, he should not be able to get them to consider any amendment; he submitted to such proceeding because he could not help himself.

Mr. HARTLEY thought the amendment in order, and was ready to give his opinion on it. He hoped the people of America would always be satisfied with having a majority to govern. He never wished to see two-thirds or three-fourths required, because it might put it in the power of a small minority to govern the whole Union.

The question on Mr. BURKE's motion was put, and lost by a majority of thirteen.

The fourth clause of the fourth proposition was taken up as follows: "No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Mr. SUMTER hoped soldiers would never be quartered on the inhabitants, either in time of peace or war, without the consent of the owner. It was a burthen, and very oppressive, even in cases where the owner gave his consent; but where this was wanting, it would be a hardship indeed! Their property would lie at the mercy of men irritated by a refusal, and well disposed to destroy the peace of the family.

He moved to strike out all the words from the clause but "no soldier shall be quartered in any house without the consent of the owner."

Mr. SHERMAN observed that it was absolutely necessary that marching troops should have quarters, whether in time of peace or war, and that it ought not to be put in the power of an individual to obstruct the public service; if quarters were not to be obtained in public barracks, they must be procured elsewhere. In England, where they paid considerable attention to private rights, they billeted the troops upon the keepers of public houses, and upon private houses also, with the consent of the magistracy.

Mr. SUMTER's motion being put, was lost by a majority of sixteen.

Mr. GERRY moved to insert between "but" and, "in a manner" the words "by a civil magistrate," observing that there was no part of the Union but where they could have access to such authority.

Mr. HARTLEY said those things ought to be entrusted to the Legislature; that cases might arise where the public safety would be endangered by putting it in the power of one person to keep a division of troops standing in the inclemency of the weather for many hours; therefore he was against inserting the words.

Mr. GERRY said either his amendment was essential, or the whole clause was unnecessary.

On putting the question, thirteen rose in favor of the motion, thirty-five against it; and then the clause was carried as reported.

The fifth clause of the fourth proposition was taken up, viz: "No person shall be subject, in case of impeachment, to more than one trial or one punishment for the same offence, nor shall be compelled to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Mr. BENSON thought the committee could not agree to the amendment in the manner it stood, because its meaning appeared rather doubtful. It says that no person shall be tried more than once for the same offence. This is contrary to the right heretofore established; he presumed it was intended to express what was secured by our former constitution, that no

man's life should be more than once put in jeopardy for the same offence; yet it was well known, that they were entitled to more than one trial. The humane intention of the clause was to prevent more than one punishment; for which reason he would move to amend it by striking out the words "one trial or."

Mr. SHERMAN approved of the motion. He said, that as the clause now stood, a person found guilty could not arrest the judgment, and obtain a second trial in his own favor. He thought that the courts of justice would never think of trying and punishing twice for the same offence. If the person was acquitted on the first trial, he ought not to be tried a second time; but if he was convicted on the first, and any thing should appear to set the judgment aside, he was entitled to a second, which was certainly favorable to him. Now the clause as it stands would deprive him of that advantage.

Mr. LIVERMORE thought the clause very essential; it was declaratory of the law as it now stood; striking out the words, would seem as if they meant to change the law by implication, and expose a man to the danger of more than one trial. Many persons may be brought to trial for crimes they are guilty of, but for want of evidence may be acquitted; in such cases, it is the universal practice in Great Britain, and in this country, that persons shall not be brought to a second trial for the same offence; therefore the clause is proper as it stands.

Mr. SEDGWICK thought, instead of securing the liberty of the subject, it would be abridging the privileges of those who were prosecuted.

The question on Mr. BENSON's motion being put, was lost by a considerable majority.

Mr. PARTRIDGE moved to insert after "same offence," the words "by any law of the United States." This amendment was lost also.

Mr. LAWRENCE said this clause contained a general declaration, in some degree contrary to laws passed. He alluded to that part where a person shall not be compelled to give evidence against himself. He thought it ought to be confined to criminal cases, and moved an amendment for that purpose; which amendment being adopted, the clause as amended was unanimously agreed to by the committee, who then proceeded to the sixth clause of the fourth proposition, in these words, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Mr. SMITH, of South Carolina, objected to the words "nor cruel and unusual punishments;" the import of them being too indefinite.

Mr. LIVERMORE.—The clause seems to express a great deal of humanity, on which account I have no objection to it; but as it seems to have no meaning in it, I do not think it necessary. What is meant by the terms excessive bail? Who are to be the judges? What is understood by excessive fines? It lies with the court to determine. No cruel and unusual punishment is to be inflicted; it is sometimes necessary to hang a man, villains often de-

August 17, 1789.]

Amendments to the Constitution.

[H. OF R.]

serve whipping, and perhaps having their ears cut off; but are we in future to be prevented from inflicting these punishments because they are cruel? If a more lenient mode of correcting vice and deterring others from the commission of it could be invented, it would be very prudent in the Legislature to adopt it; but until we have some security that this will be done, we ought not to be restrained from making necessary laws by any declaration of this kind.

The question was put on the clause, and it was agreed to by a considerable majority.

The committee went on to the consideration of the seventh clause of the fourth proposition, being as follows: "The right of the people to be secured in their persons, houses, papers, and effects, shall not be violated by warrants issuing without probable cause, supported by oath or affirmation, and not particularly describing the place to be searched, and the persons or things to be seized."

Mr. GERRY said he presumed there was a mistake in the wording of this clause; it ought to be "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches," and therefore moved that amendment.

This was adopted by the committee.

Mr. BENSON objected to the words "by warrants issuing." This declaratory provision was good as far as it went, but he thought it was not sufficient; he therefore proposed to alter it so as to read "and no warrant shall issue."

The question was put on this motion, and lost by a considerable majority.

Mr. LIVERMORE objected to the words "and not" between "affirmation" and "particularly." He moved to strike them out, in order to make it an affirmative proposition.

But the motion passed in the negative.

The clause as amended being now agreed to,

The eighth clause of the fourth proposition was taken up, which was, "The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Mr. GERRY said, it ought to be "deny or impair," for the word "disparage" was not of plain import; he therefore moved to make that alteration, but not being seconded, the question was taken on the clause, and it passed in the affirmative.

The committee then proceeded to the fifth proposition:

Article 1. section 10. between the first and second paragraph, insert "no State shall infringe the equal rights of conscience, nor the freedom of speech or of the press, nor of the right of trial by jury in criminal cases."

Mr. TUCKER.—This is offered, I presume, as an amendment to the constitution of the United States, but it goes only to the alteration of the constitutions of particular States. It will be much better, I apprehend, to leave the State Governments to themselves, and not to interfere with them more than we already do;

and that is thought by many to be rather too much. I therefore move, sir, to strike out these words.

Mr. MADISON conceived this to be the most valuable amendment in the whole list. If there was any reason to restrain the Government of the United States from infringing upon these essential rights, it was equally necessary that they should be secured against the State Governments. He thought that if they provided against the one, it was as necessary to provide against the other, and was satisfied that it would be equally grateful to the people.

Mr. LIVERMORE had no great objection to the sentiment, but he thought it not well expressed. He wished to make it an affirmative proposition; "the equal rights of conscience, the freedom of speech or of the press, and the right of trial by jury in criminal cases, shall not be infringed by any State."

This transposition being agreed to, and Mr. TUCKER's motion being rejected, the clause was adopted.

The sixth proposition, article 3, section 2, add to the second paragraph, "But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a jury according to the course of the common law, be otherwise re-examinable than according to the rules of the common law."

Mr. BENSON moved to strike out the first part of the paragraph respecting the limitation of appeals, because the question in controversy might be an important one, though the action was not to the amount of a thousand dollars.

Mr. MADISON.—If the gentleman will propose any restriction to answer his purpose, and for avoiding the inconvenience he apprehends, I am willing to agree to it; but it will be improper to strike out the clause without a substitute.

There is little danger that any court in the United States will admit an appeal where the matter in dispute does not amount to a thousand dollars; but as the possibility of such an event has excited in the minds of many citizens the greatest apprehension that persons of opulence would carry a cause from the extremities of the Union to the Supreme Court, and thereby prevent the due administration of justice, it ought to be guarded against.

Mr. LIVERMORE thought the clause was objectionable, because it comprehended nothing more than the value.

Mr. SEDGWICK moved to insert three thousand dollars, instead of one thousand; but on the question, this motion was rejected, and the proposition accepted in its original form.

The committee then proceeded to consider the seventh proposition, in the words following:

Article 3, section 2. Strike out the whole of the third paragraph, and insert, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusa-

tion, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

Mr. BURKE moved to amend this proposition in such a manner as to leave it in the power of the accused to put off the trial to the next session, provided he made it appear to the court that the evidence of the witnesses, for whom process was granted but not served, was material to his defence.

Mr. HARTLEY said, that in securing him the right of compulsory process, the Government did all it could; the remainder must lie in the discretion of the court.

Mr. SMITH, of South Carolina, thought the regulation would come properly in, as part of the judicial system.

The question on Mr. BURKE's motion was taken and lost; ayes 9, noes 41.

Mr. LIVERMORE moved to alter the clause, so as to secure to the criminal the right of being tried in the State where the offence was committed.

Mr. STONE observed that full provision was made on the subject in the subsequent clause.

On the question, Mr. LIVERMORE's motion was adopted.

Mr. BURKE said, he was not so much discouraged by the fate of his former motions, but that he would venture upon another. He therefore proposed to add to the clause, that no criminal prosecution should be had by way of information.

Mr. HARTLEY only requested the gentleman to look to the clause, and he would see the impropriety of inserting it in this place.

A desultory conversation arose, respecting the foregoing motion, and after some time, Mr. BURKE withdrew it for the present.

The committee then rose and reported progress, after which the House adjourned.

TUESDAY, August 18.

NEW JERSEY ELECTIONS.

Mr. CLYMER, from the Committee of Elections, reported that the committee, pursuant to the instructions to them contained in the resolution of the twenty-fifth of May, relative to the petition of a number of the citizens of the State of New Jersey, complaining of the illegality of the election of the members of this House, as elected within that State, do ascertain the following facts, as arising from the proofs, to wit:

1st. That the election for members of this House, held within that State, in consequence of an act of the Legislature thereof, entitled, "An act for carrying into effect, on the part of the State of New Jersey, the constitution of the United States, assented to, ratified, and confirmed by this State, on the 18th day of December, 1787," passed the 20th November, 1791, were closed in the several counties of Bergen, Morris, Monmouth, Hunterdon, So-

merset, Middlesex, Sussex, Salem, Cape May, Cumberland, Burlington, and Gloucester, and the lists of the several persons voted for, and the number of votes taken for each, were received by the Governor at the respective times appearing from the said lists, and the endorsements thereon, which lists accompany this report.

2d. That the election in the county of Essex, the remaining county in the State, closed on the 27th of April, and the list was received by the Governor on the 3d of May.

3d. That in consequence of a summons from the Governor, (a copy whereof accompanies this report,) dated the 27th of February, to four of the members of the council, a privy council, consisting of the Governor and the four members so summoned, did assemble at Elizabethtown on the 3d of March, and, being so assembled, Mr. Haring, another member of the council, received a note from the Governor, (a copy whereof accompanies this report,) in consequence whereof Mr. Haring did also attend the privy council as a member thereof.

4th. That the Governor then appointed another meeting of the privy council, to be held on the 18th of March, on which day the Governor and eleven members of the council did assemble, and did then determine, from the lists of the twelve counties specified in the first fact above stated, the four members now holding seats in this House, the four persons elected members of this House within that State; against which determination of the council, three of the members then present did protest; and a protest (a copy of which accompanies this report) was, with the consent of the council, delivered into the council in form, on the subsequent day.

5th. That there was no determination of the Governor and privy council in the premises, until the eighteenth of March.

6th. That the Governor did, on the nineteenth of March, issue a proclamation, (a copy whereof accompanies this report.)

Ordered, That the said report do lie on the table.

AMENDMENTS TO THE CONSTITUTION.

Mr. GERRY moved, "That such of the amendments to the constitution proposed by the several States, as are not in substance comprised in the report of the select committee appointed to consider amendments, be referred to a Committee of the whole House; and that all amendments which shall be agreed to by the committee last mentioned be included in one report."

Mr. TUCKER remarked, that many citizens expected that the amendments proposed by the conventions would be attended to by the House, and that several members conceived it to be their duty to bring them forward. If the House should decline taking them into consideration, it might tend to destroy that harmony which had hitherto existed, and which did great honor

AUGUST 18, 1789.]

Amendments to the Constitution.

[H. OF R.]

to their proceedings; it might affect all their future measures, and promote such feuds as might embarrass the Government exceedingly. The States who had proposed these amendments would feel some degree of chagrin at having misplaced their confidence in the General Government. Five important States have pretty plainly expressed their apprehensions of the danger to which the rights of their citizens are exposed. Finding these cannot be secured in the mode they had wished, they will naturally recur to the alternative, and endeavor to obtain a federal convention; the consequence of this may be disagreeable to the Union; party spirit may be revived, and animosities rekindled destructive of tranquillity. States that exert themselves to obtain a federal convention, and those that oppose the measure, may feel so strongly the spirit of discord, as to sever the Union asunder.

If in this conflict the advocates for a federal convention should prove successful, the consequences may be alarming; we may lose many of the valuable principles now established in the present constitution. If, on the other hand, a convention should not be obtained, the consequences resulting are equally to be dreaded; it would render the administration of this system of government weak, if not impracticable; for no Government can be administered with energy, however energetic its system, unless it obtains the confidence and support of the people. Which of the two evils is the greatest would be difficult to ascertain.

It is essential to our deliberations that the harmony of the House be preserved; by it alone we shall be enabled to perfect the organization of the Government—a Government but in embryo, or at best but in its infancy.

My idea relative to this constitution, whilst it was dependent upon the assent of the several States, was, that it required amendment, and that the proper time for amendment was previous to the ratification. My reasons were, that I conceived it difficult, if not impossible, to obtain essential amendments by the way pointed out in the constitution; nor have I been mistaken in this suspicion. It will be found, I fear, still more difficult than I apprehended; for perhaps these amendments, should they be agreed to by two-thirds of both Houses of Congress, will be submitted for ratification to the Legislatures of the several States, instead of State conventions, in which case the chance is still worse. The Legislatures of almost all the States consist of two independent, distinct bodies; the amendments must be adopted by three-fourths of such Legislatures; that is to say, they must meet the approbation of the majority of each of eighteen deliberative assemblies. But, notwithstanding all these objections to obtaining amendments after the ratification of the constitution, it will tend to give a great degree of satisfaction to those who are desirous of them, if this House shall take them up, and consider them with that degree of candor and attention

they have hitherto displayed on the subjects that have come before them; consider the amendments separately, and, after fair deliberation, either approve or disapprove of them. By such conduct, we answer in some degree the expectations of those citizens in the several States who have shown so great a tenacity to the preservation of those rights and liberties they secured to themselves by an arduous, persevering, and successful conflict.

I have hopes that the States will be reconciled to this disappointment, in consequence of such procedure.

A great variety of arguments might be urged in favor of the motion; but I shall rest it here, and not trespass any further upon the patience of the House.

Mr. MADISON was just going to move to refer these amendments, in order that they might be considered in the fullest manner; but it would be very inconvenient to have them made up into one report, or all of them discussed at the present time.

Mr. VINING had no objection to the bringing them forward in the fullest point of view; but his objection arose from the informality attending the introduction of the business.

The order of the House was to refer the report of the Committee of eleven to a Committee of the whole, and therefore it was improper to propose any thing additional.

A desultory conversation arose on this motion, when Mr. VINING moved the previous question, in which, being supported by five members, it was put, and the question was, Shall the main question, to agree to the motion, be now put? The yeas and nays being demanded by one-fifth of the members present, on this last motion, they were taken as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Griffin, Grout, Hathorn, Livermore, Page, Parker, Van Rensselaer, Sherman, Stone, Sturgis, Sumter, and Tucker.—16.

NAYS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gilman, Goodhue, Hartley, Heister, Huntington, Lawrence, Lee, Madison, Moore, Muhlenburg, Partridge, Schureman, Scott, Sedgwick, Seney, Sylvester, Sinnickson, Smith, of Maryland, Smith, of South Carolina, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—34.

So the motion was lost.

A message from the Senate informed the House that the Senate had passed the bill providing for expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, with an amendment, to which they desire the concurrence of the House.

The House again resolved itself into a Committee of the whole on the subject of amendments, and took into consideration the 2d clause of the 7th proposition, in the words following, "The trial of all crimes (except in cases of impeachment, and in cases arising in the land and naval forces, or in the militia when in actual

H. OF R.]

Amendments to the Constitution.

[AUGUST 18, 1789.]

service in the time of war, or public danger,) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment, or indictment, by a grand jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State; and if it be committed in a place not within a State, the indictment and trial may be at such place or places as the law may have directed."

Mr. BURKE moved to change the word "vicinage" into "district or county in which the offence has been committed." He said this was conformable to the practice of the State of South Carolina, and he believed to most of the States in the Union; it would have a tendency also to quiet the alarm entertained by the good citizens of many of the States for their personal security; they would no longer fear being dragged from one extremity of the State to the other for trial, at the distance of three or four hundred miles.

Mr. LEE thought the word "vicinage" was more applicable than that of "district, or county," it being a term well understood by every gentleman of legal knowledge.

The question on Mr. BURKE's motion being put was negatived.

Mr. BURKE then revived his motion for preventing prosecutions upon information, but on the question this was also lost.

The clause was now adopted without amendment.

The 3d clause of the 7th proposition, as follows, "In suits at common law, the right of trial by jury shall be preserved," was considered and adopted.

The 8th proposition in the words following, was considered, "Immediately after art. 6, the following to be inserted as art. 7:"

"The powers delegated by this constitution to the Government of the United States, shall be exercised as therein appropriated, so that the Legislative shall not exercise the powers vested in the Executive or Judicial; nor the Executive the power vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive."

Mr. SHERMAN conceived this amendment to be altogether unnecessary, inasmuch as the constitution assigned the business of each branch of the Government to a separate department.

Mr. MADISON supposed the people would be gratified with the amendment, as it was admitted that the powers ought to be separate and distinct; it might also tend to an explanation of some doubts that might arise respecting the construction of the constitution.

Mr. LIVERMORE, thinking the clause subversive of the constitution, was opposed to it, and hoped it might be disagreed to.

On the motion being put, the proposition was carried.

The 9th proposition, in the words following, was considered, "The powers not delegated by the constitution, nor prohibited by it to the States, are reserved to the States respectively."

Mr. TUCKER proposed to amend the proposition, by prefixing to it "all powers being derived from the people." He thought this a better place to make this assertion than the introductory clause of the constitution, where a similar sentiment was proposed by the committee. He extended his motion also, to add the word "expressly," so as to read "the powers not expressly delegated by this constitution."

Mr. MADISON objected to this amendment, because it was impossible to confine a Government to the exercise of express powers; there must necessarily be admitted powers by implication, unless the constitution descended to recount every minutia. He remembered the word "expressly" had been moved in the convention of Virginia, by the opponents to the ratification, and, after full and fair discussion, was given up by them, and the system allowed to retain its present form.

Mr. SHERMAN coincided with Mr. MADISON in opinion, observing that corporate bodies are supposed to possess all powers incident to a corporate capacity, without being absolutely expressed.

Mr. TUCKER did not view the word "expressly" in the same light with the gentleman who opposed him; he thought every power to be expressly given that could be clearly comprehended within any accurate definition of the general power.

Mr. TUCKER's motion being negatived,

Mr. CARROLL proposed to add to the end of the proposition, "or to the people;" this was agreed to.

The 10th proposition, "Art. 7 to be made Art. 8," agreed to.

The committee then rose, and reported the amendments as amended by the committee.

Mr. TUCKER then moved that the following propositions of amendment to the constitution of the United States, be referred to a Committee of the whole House, to wit:

Art. 1. sect. 2. clause 2. at the end, add these words, "Nor shall any person be capable of serving as a Representative more than six years, in any term of eight years."

Clause 3. at the end, add these words, "From and after the commencement of the year 1795, the election of Senators for each State shall be annual, and no person shall be capable of serving as a Senator more than five years in any term of six years."

Sect. 4. clause 1. strike out the words, "But the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Sect. 5. clause 1. amend the first part to read thus, "Each State shall be the judge (according to its own laws) of the election of its Senators and Representatives to sit in Congress, and shall furnish them with sufficient credentials; but each House shall judge of

AUGUST 19, 1789.]

Indian Treaties.

[H. OF R.]

the qualification of its own members: a majority of each House shall constitute," &c.

Clause 2. strike out these words, "And with the concurrence of two-thirds expel a member," and insert the word "and" after the word "proceedings."

Sect. 6. clause 2. amend to read thus, "No person having been elected, and having taken his seat as a Senator or Representative, shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, and no person," &c.

Art. 1. sect. 8. clause 1. at the end, add these words, "No direct tax shall be laid, unless any State shall have neglected to furnish, in due time, its proportion of a previous requisition; in which case Congress may proceed to levy, by direct taxation, within any State so neglecting, its proportion of such requisition, together with interest, at the rate of six per cent. per annum from the time it ought to have been furnished, and the charges of levying the same."

Clause 9. strike out the words "tribunals inferior to the Supreme Court," and insert the words "courts of admiralty."

Clause 17. at the end, add these words, "Provided that the Congress shall not have authority to make any law to prevent the laws of the States respectively in which such district or places may be, from extending to such district or places in all civil and criminal matters, in which any person without the limits of such district or places shall be a party aggrieved."

Sect. 9. clause 7. Strike out the words "Without the consent of the Congress," and amend to read thus, "Shall accept of any present or emolument, or hold any office or title of any kind whatever from any king, prince, or foreign state; provided that this clause shall not be construed to affect the rights of those persons (during their own lives) who are now citizens of the United States, and hold foreign titles."

Sect. 10. clause 2. amend the first sentence to read thus, "No State shall lay any duties on imports or exports, or any duty of tonnage, except such as shall be uniform in their operation on all foreign nations, and consistent with existing treaties, and also uniform in their operation on the citizens of all the several States in the Union."

Art. 2. sect. 1. clause 5. at the end, add these words, "Nor shall any person be capable of holding the office of President of the United States more than eight years in any term of twelve years."

Sect. 2. clause 1. Strike out the words "be commander in chief," and insert, "have power to direct (agreeable to law) the operations."

Clause 3. at the end, add these words, "He shall also have power to suspend from his office, for a time not exceeding twelve months, any officer whom he shall have reason to think unfit to be entrusted with the duties thereof; and Congress may, by law, provide for the absolute removal of officers found to be unfit for the trust reposed in them."

Art. 3. sect. 1. from each sentence strike out the words "inferior courts" and insert the words "courts of admiralty."

Sect. 2. clause 1. strike out the words "Between a State and citizens of another State," &c. to the end, and amend to read thus, "between a State and foreign States, and between citizens of the United States claiming the same lands under grants of different States."

Article 6. clause 3. Between the word "no" and the word "religious," insert the word "other."

On the question, Shall the said propositions of amendments be referred to the consideration of a Committee of the whole House? it was determined in the negative.

WEDNESDAY, August 19.

INDIAN TREATIES.

The House took up the amendment of the Senate to the bill providing for the expense of Indian treaties. The alteration proposed by them was to insert twenty thousand dollars instead of forty thousand.

MR. BALDWIN.—Whether the treaty with the Wabash nation is to be included in the provision as reduced by the Senate or not, is a matter as yet undetermined. If it is, according to the account given by the Governor of the Western Territory, of the actual expenses attending treaties at which he had been present, I conceive the sum to be considerably short of what will be absolutely requisite to ensure the object which the House appear to have had in contemplation. I therefore move to amend the amendment by adopting these words, "for holding treaties with the Indians south of the Ohio."

MR. SHERMAN.—I have been informed that the late Congress granted forty thousand dollars for the purpose of holding treaties with the Indians, and that sum has not yet been expended; and I conjecture that it has been information of a similar kind which has induced the Senate to propose this amendment.

MR. HARTLEY thought it would be proper that the President should have a discretionary power on this occasion. If the forty thousand dollars spoken of remain yet unemployed, perhaps it may be sufficient, when added to what is granted by the present bill; but it would be prudent to ascertain the fact before the House decided.

MR. FITZSIMONS observed that it was but last week the House had voted the forty thousand dollars. He should be glad to know upon what principle it was done; if they were wrong, they should at least be convinced of their error, before they rescinded their former determination.

He presumed that the appropriation spoken of was not founded upon official communications, he therefore was at liberty to doubt its accuracy. He did not doubt that the former Congress had made demands upon particular States for that sum; but he questioned if they had been complied with, and very little reliance was to be had upon new advances from those quarters. However, be this as it might, he should be glad to know upon what ground the amendment stood; if he found it to be proper, he should cheerfully agree to it. He moved to let the bill lie on the table till to-morrow.

MR. SEDGWICK said, that when this business was before under consideration, he was sur-

H. OF R.]

Indian Treaties.

[August 19, 1889.]

prised to find the majority of the House in favor of the sum then moved for. It appeared to him that the President, in his message, had in contemplation a treaty with the Creek Indians only; and that they should exceed the sum necessary for that purpose, without having a previous estimate, appeared to him totally incomprehensible; that they should vote so large a sum of money at this period of the Government, and when the situation of our finances is so much embarrassed as to render it impossible to make any provision for the public creditors, would appear to be a most extraordinary appropriation. It very seldom occurs that a Government errs on the side of economy; the sum proposed in the amendment he thought would be amply sufficient; and if the largest sum was to be voted, they might be justifiable in supposing that the business would be protracted until the whole sum was expended. He therefore hoped the House would concur with the Senate.

Mr. SUMTER thought twenty thousand dollars fully competent to answer the present purpose.

Mr. MADISON controverted the sentiment of the honorable member from Massachusetts, (Mr. SEDGWICK,) as it respected the errors of economy; he doubted the assertion that Government might not exceed in the practice of it; and he was not certain that it would not eventually appear in the present instance, that by too great caution not to exceed in the grant, they incurred an unnecessary additional expense. He seconded Mr. FITZSIMON'S motion to defer the decision until to-morrow.

Mr. BOUDINOT opposed the motion. He entertained an opinion from which he did not mean to deviate, that in all appropriations we ought to have a special regard to the state of our treasury. Can any estimate be produced to demonstrate that so large a sum as forty thousand dollars is necessary for this business? I presume not. The number of Indians to be provided for exceeds greatly what would be sufficient to give the treaties all possible validity. He was fully convinced by the gentleman from South Carolina, (Mr. SUMTER,) in a former discussion on the same subject, that so large a sum was quite unnecessary upon the present occasion; we ought to consider that such large grants may influence future appropriations. Should the sum mentioned in the amendment be found insufficient, the President will give us notice accordingly, and the deficiency may be supplied. But should we appropriate a sum more than sufficient in the present state of our treasury, we shall find that we subject ourselves to very great embarrassments, and cannot justify such a step. He was of opinion that twenty thousand dollars would be found fully sufficient, with what was now on hand, and he hoped the motion for postponing would not be agreed to. The time fixed for holding the treaty is fast approaching. Should the warriors appear on the ground, without

finding our commissioners, they would return home, and then what would be the consequence? The loss of a single day might be attended with fatal effects.

Mr. LAWRENCE was in favor of postponing the motion; he wished to obtain accurate information respecting several circumstances that had been mentioned; time must be allowed for this; and the House by to-morrow may be in the possession of such facts as will enable them to act more clearly on the business. I trust, sir, said he, that I am as averse as any member in this House to the making use of the public money, either profusely or unnecessarily. But this is an important subject; and the making of such provisions as may fully answer the object in the first instance is the most likely mode to ensure a satisfactory fulfilment.

On the motion being put for postponement of the bill, it was negatived.

Mr. BALDWIN moved to insert the words "south of the Ohio."

Mr. SCOTT.—It may, perhaps be thought something odd, Mr. Chairman, that living upon the frontiers, and being supposed to know something of Indian affairs, I should be silent on this occasion; the reason is, sir, that I have no opinion of Indian treaties, as Indian treaties are usually conducted; and I fear, if any sum is voted more than sufficient to support the commissioners, and feed the Indians while the treaty lasts, that it will be embezzled; for I conceive it to be the worst kind of policy to spend a large sum of money in making presents to the savages; it never was productive of any solid advantage, but frequently the reverse. The Indians have reduced war and treaties to a system of commerce and traffic. By giving them presents, we strengthen and enable them to fall upon our defenceless frontiers. It has often been the case that the arms and ammunition, which they have received at a treaty of peace, have been made use of against the donors. I conceive the sum of twenty thousand dollars to be quite sufficient, and hope we shall concur with the Senate therein.

Mr. MOORE acquiesced with Mr. SCOTT. The system which had been adhered to of making presents to the Indians he highly reprobated.

Mr. BALDWIN observed, that the observations of the honorable gentleman (Mr. SCOTT) are of a general nature; a statement had been made by the Superintendent of Indian Affairs, and by the Secretary of War, and was supposed to be upon the best information they could obtain; if this should prove defective, or if it be too much, let the particulars be pointed out in which the excess lies. He states, in his estimate, that twenty-five thousand dollars are requisite for holding treaties with the Southern tribes. If it is intended by this provision that the expenses of holding treaties with both Northern and Southern tribes should be defrayed, it plainly appears that we shall fail for want of means to effect our object on both.

AUGUST 21, 1789.]

Amendments to the Constitution.

[H. or R.]

Mr. SUMTER.—The number of Indians on which the estimate is founded arose merely from misinformation; so large a number does not appear to be necessary; such a quantity will not be assembled; there cannot be provision made for them; they would run the risk of suffering exceedingly. I do not entertain a doubt, sir, but the business may be properly conducted without assembling such a number, and I dare assert it will be well done if we do not make too large a provision. We shall, I hope, support the dignity of the United States, and let these Indians know that treaties in future shall not be violated by them with impunity; that we will treat with them upon generous and reciprocal terms; that while we protect them from any depredations from our frontiers, they shall strictly adhere to the stipulations on their part. Some trifling presents, I grant, may be necessary; it is an ancient custom; but I am opposed to extravagant or profuse ones, because they are unnecessary. I think the sum of twenty thousand dollars will be fully sufficient.

The motion of Mr. BALDWIN being put, was negatived; after which the amendment of the Senate was agreed to.

AMENDMENTS TO THE CONSTITUTION.

The House then took into consideration the amendments to the constitution, as reported by the Committee of the whole.

Mr. SHERMAN renewed his motion for adding the amendments to the constitution by way of supplement.

Hereupon ensued a debate similar to what took place in the Committee of the whole, (see page 734;) but, on the question, Mr. SHERMAN's motion was carried by two-thirds of the House; in consequence it was agreed to.

The first proposition of amendment (see page 734) was rejected, because two-thirds of the members present did not support it.

Mr. AMES then brought forward his motion respecting the representation suggested, (see page 756.) A desultory conversation took place, and several amendments of the motion were attempted; but the House adjourned without coming to any determination.

THURSDAY, August 20.

A message from the Senate informed the House that they agree to the resolution of this House of the 10th inst., for executing the survey directed by an act of the late Congress, of June 6, 1788.

AMENDMENTS TO THE CONSTITUTION.

The House resumed the consideration of the report of the Committee of the whole on the subject of amendment to the constitution.

Mr. AMES's proposition was taken up. Five or six other members introduced propositions on the same point, and the whole were, by mutual

consent, laid on the table. After which, the House proceeded to the third amendment, and agreed to the same.

On motion of Mr. AMES, the fourth amendment was altered so as to read "Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience." This being adopted,

The first proposition was agreed to.

Mr. SCOTT objected to the clause in the sixth amendment, "No person religiously scrupulous shall be compelled to bear arms." He observed that if this becomes part of the constitution, such persons can neither be called upon for their services, nor can an equivalent be demanded; it is also attended with still further difficulties, for a militia can never be depended upon. This would lead to the violation of another article in the constitution, which secures to the people the right of keeping arms, and in this case recourse must be had to a standing army. I conceive it, said he, to be a legislative right altogether. There are many sects I know, who are religiously scrupulous in this respect; I do not mean to deprive them of any indulgence the law affords; my design is to guard against those who are of no religion. It has been urged that religion is on the decline; if so, the argument is more strong in my favor, for when the time comes that religion shall be discarded, the generality of persons will have recourse to these pretexts to get excused from bearing arms.

Mr. BOUDINOT thought the provision in the clause, or something similar to it, was necessary. Can any dependence, said he, be placed in men who are conscientious in this respect? or what justice can there be in compelling them to bear arms, when, according to their religious principles, they would rather die than use them? He adverted to several instances of oppression on this point, that occurred during the war. In forming a militia, an effectual defence ought to be calculated, and no characters of this religious description ought to be compelled to take up arms. I hope that in establishing this Government, we may show the world that proper care is taken that the Government may not interfere with the religious sentiments of any person. Now, by striking out the clause, people may be led to believe that there is an intention in the General Government to compel all its citizens to bear arms.

Some further desultory conversation arose, and it was agreed to insert the words "in person" to the end of the clause; after which, it was adopted, as was the fourth, fifth, sixth, seventh, and eighth clauses of the fourth proposition; then the fifth, sixth, and seventh propositions were agreed to, and the House adjourned.

FRIDAY, August 21.

AMENDMENTS TO THE CONSTITUTION.

The House proceeded in the consideration of the amendments to the constitution reported by

H. OF R.]

Amendments to the Constitution.

[AUGUST 21, 1789.]

the Committee of the whole, and took up the second clause of the fourth proposition.

Mr. GERRY then proposed to amend it by striking out these words, "public danger," and to insert "foreign invasion;" this being negatived, it was then moved to strike out the last clause, "and if it be committed," &c. to the end. This motion was carried, and the amendment was adopted.

The House then took into consideration the third clause of the seventh proposition, which was adopted without debate.

The eighth proposition was agreed to in the same manner.

The ninth proposition Mr. GERRY proposed to amend by inserting the word "expressly," so as to read "the powers not expressly delegated by the constitution, nor prohibited to the States, are reserved to the States respectively, or to the people." As he thought this an amendment of great importance, he requested the yeas and nays might be taken. He was supported in this by one-fifth of the members present; whereupon they were taken, and were as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Page, Parker, Partridge, Van Rensselaer, Smith, (of South Carolina,) Stone, Sumter, Thatcher, and Tucker.—17.

NAYS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Heister, Lawrence, Lee, Madison, Moore, Muhlenburg, Schureman, Scott, Sedgwick, Seney, Sherman, Sylvester, Sinickson, Smith, (of Maryland,) Sturges, Trumbull, Vining, Wadsworth, and Wynkoop.—32.

Mr. SHERMAN moved to alter the last clause, so as to make it read, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This motion was adopted without debate.

Mr. BURKE.—The majority of this House may be inclined to think all our propositions unimportant, as they seemed to consider that upon which the yeas and noes were just now called. However, to the minority they are important; and it will be happy for the Government, if the majority of our citizens are not of their opinion; but be this as it may, I move you, sir, to add to the articles of amendment the following: "Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of Senators, or Representatives, except when any State shall refuse or neglect, or be unable, by invasion or rebellion, to make such election."

Mr. AMES thought this one of the most justifiable of all the powers of Congress; it was essential to a body representing the whole community, that they should have power to regulate their own elections, in order to secure a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics to let others judge for them, and

is a departure from the principles upon which the constitution was founded.

Mr. LIVERMORE said, this was an important amendment, and one that had caused more debate in the Convention of New Hampshire than any other whatever. The gentleman just up said it was a solecism in politics, but he could cite an instance in which it had taken place. He only called upon gentlemen to recollect the circumstance of Mr. SMITH's (of South Carolina) election, and to ask if that was not decided by the State laws? Was not his qualification as a member of the Federal Legislature determined upon the laws of South Carolina? It was not supposed by the people of South Carolina, that the House would question a right derived by their representative from their authority.

Mr. MADISON.—If this amendment had been proposed at any time either in the Committee of the whole or separately in the House, I should not have objected to the discussion of it. But I cannot agree to delay the amendments now agreed upon, by entering into the consideration of propositions not likely to obtain the consent of either two-thirds of this House or three-fourths of the State Legislatures. I have considered this subject with some degree of attention, and, upon the whole, am inclined to think the constitution stands very well as it is.

Mr. GERRY was sorry that gentlemen objected to the time and manner of introducing this amendment, because it was too important in its nature to be defeated by want of form. He hoped, and he understood it to be the sense of the House, that each amendment should stand upon its own ground; if this was, therefore, examined on its own merits, it might stand or fall as it deserved, and there would be no cause for complaint on the score of inattention.

His colleague (Mr. AMES) objected to the amendment, because he thought no Legislature was without the power of determining the mode of its own appointment; but he would find, if he turned to the constitution of the State he was a representative of, that the times, places, and manner of choosing members of their Senate and Council were prescribed therein.

Why, said he, are gentlemen desirous of retaining this power? Is it because it gives energy to the Government? It certainly has no such tendency; then why retain a clause so obnoxious to almost every State? But this provision may be necessary in order to establish a Government of an arbitrary kind, to which the present system is pointed in no very indirect manner: in this way, indeed, it may be useful. If the United States are desirous of controlling the elections of the people, they will in the first place, by virtue of the powers given them by the 4th sect. of the 1st art. abolish the mode of balloting; then every person must publicly announce his vote, and it would then frequently happen that he would be obliged to vote for a man, or "the friend of a man" to whom he was under obligations. If the Government grows de-

AUGUST 21, 1789.]

Amendments to the Constitution.

[H. OF R.]

sirous of being arbitrary, elections will be ordered at remote places, where their friends alone will attend. Gentlemen will tell me that these things are not to be apprehended; but if they say that the Government has the power of doing them, they have no right to say the Government will never exercise such powers, because it is presumable that they will administer the constitution at one time or another with all its powers; and whenever that time arrives, farewell to the rights of the people, even to elect their own representatives.

Mr. STONE called upon gentlemen to show what confederated Government had the power of determining on the mode of their own election. He apprehended there were none; for the representatives of States were chosen by the States in the manner they pleased. He was not afraid that the General Government would abuse this power, and as little afraid that the States would; but he thought it was in the order of things that the power should vest in the States respectively, because they can vary their regulations to accommodate the people in a more convenient manner than can be done in any general law whatever. He thought the amendment was generally expected, and therefore, on the principles of the majority, ought to be adopted.

Mr. SMITH (of South Carolina) said, he hoped it would be agreed to; that eight States had expressed their desires on this head, and all of them wished the General Government to relinquish their control over the elections. The eight States he alluded to were New Hampshire, Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina.

Mr. CARROLL denied that Maryland had expressed the desire attributed to her.

Mr. FITZSIMONS.—The remark was not just as it respected Pennsylvania.

Mr. SMITH (of South Carolina) said, the Convention of Maryland appointed a committee to recommend amendments, and among them was the one now under consideration.

Mr. STONE replied there was nothing of the kind noticed on the journals of that body.

Mr. SMITH (of South Carolina) did not know how they came into the world, but he had certainly seen them. As to Pennsylvania, there was a very considerable minority, he understood one-third, who had recommended the amendment. Now, taking all circumstances into consideration, it might be fairly inferred that a majority of the United States were in favor of this amendment. He had studied to make himself acquainted with this particular subject, and all that he had ever heard in defence of the power being exercised by the General Government was, that it was necessary, in case any State neglected or refused to make provision for the election. Now these cases were particularly excepted by the clause proposed by his honorable colleague; and therefore he presumed there was no good argument against it.

Mr. SEDGWICK moved to amend the motion, by giving the power to Congress to alter the times, manner, and places of holding elections, provided the States made improper ones; for as much injury might result to the Union from improper regulations, as from a neglect or refusal to make any. It is as much to be apprehended that the States may abuse their powers, as that the United States may make an improper use of theirs.

Mr. AMES said, that inadequate regulations were equally injurious as having none, and that such an amendment as was now proposed would alter the constitution; it would vest the supreme authority in places where it was never contemplated.

Mr. SHERMAN observed, that the Convention were very unanimous in passing this clause; that it was an important provision, and if it was resigned it would tend to subvert the Government.

Mr. MADISON was willing to make every amendment that was required by the States, which did not tend to destroy the principles and the efficacy of the constitution; he conceived that the proposed amendment would have that tendency, he was therefore opposed to it.

Mr. SMITH (of South Carolina) observed, that the States had the sole regulation of elections, so far as it respected the President. Now he saw no good reason why they should be indulged in this, and prohibited from the other. But the amendment did not go so far; it admitted that the General Government might interfere whenever the State Legislature refused or neglected; and it might happen that the business would be neglected without any design to injure the administration of the General Government; it might be that the two branches of the Legislature could not agree, as happened he believed in the Legislature of New York, with respect to their choice of Senators at their late session.

Mr. TUCKER objected to Mr. SEDGWICK's motion of amendment, because it had a tendency to defeat the object of the proposition brought forward by his colleague, (Mr. BURKE.) The General Government would be the judge of inadequate or improper regulations; of consequence they might interfere in any or every law which the States might pass on that subject.

He wished that the State Legislatures might be left to themselves to perform every thing they were competent to, without the guidance of Congress. He believed there was no great danger, but they knew how to pursue their own good, as well when left to their discretion, as they would under the direction of a superior. It seemed to him as if there was a strong propensity in this Government to take upon themselves the guidance of the State Governments, which to his mind implied a doubt of their capacity to govern themselves; now his judgment was convinced that the particular State Governments could take care of themselves, and deserved

more to be trusted than this did, because the right of the citizen was more secure under it.

It had been supposed by some States, that electing by districts was the most convenient mode of choosing members to this House; others have thought that the whole State ought to vote for the whole number of members to be elected for that State. Congress might, under like impressions, set their regulations aside. He had heard that many citizens of Virginia (which State was divided into eleven districts) supposed themselves abridged of nine-tenths of their privilege by being restrained to the choice of one man instead of ten, the number that State sends to this House.

With respect to the election of Senators, the mode is fixed; every State but New York has established a precedent; there is, therefore, but little danger of any difficulty on this account. As to New York, she suffers by her want of decision; it is her own loss; but probably they may soon decide the point, and then no difficulty can possibly arise hereafter. From all these considerations, he was induced to hope Mr. SEDGWICK's motion would be negatived, and his colleague's agreed to.

Mr. GOODHUE hoped the amendment never would obtain. Gentlemen should recollect there appeared a large majority against amendments, when the subject was first introduced, and he had no doubt but that majority still existed. Now, rather than this amendment should take effect, he would vote against all that had been agreed to. His greatest apprehensions were, that the State Governments would oppose and thwart the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal Government to possess every power necessary to its existence.

Mr. BURKE was convinced there was a majority against him; but, nevertheless, he would do his duty, and propose such amendments as he conceived essential to secure the rights and liberties of his constituents. He begged permission to make an observation or two, not strictly in order; the first was on an assertion that had been repeated more than once in this House, "That this revolution or adoption of the new constitution was agreeable to the public mind, and those who opposed it at first are now satisfied with it." I believe, sir, said he, that many of those gentlemen who agreed to the ratification without amendments, did it from principles of patriotism, but they knew at the same time that they parted with their liberties; yet they had such reliance on the virtue of a future Congress, that they did not hesitate, expecting that they would be restored to them unimpaired, as soon as the Government commenced its operations, conformably to what was mutually understood at the sealing and delivering up of those instruments.

It has been supposed that there is no danger to be apprehended from the General Government of an invasion of the rights of election.

I will remind gentlemen of an instance in the Government of Holland. The patriots in that country fought no less strenuously for that prize than the people of America; yet, by giving to the States General powers not unlike those in this constitution, their right of representation was abolished. That they once possessed it is certain, and that they made as much talk about its importance as we do; but now the right has ceased, all vacancies are filled by the men in power. It is our duty, therefore, to prevent our liberties from being fooled away in a similar manner; consequently we ought to adopt the clause which secures to the General Government every thing that ought to be required.

Mr. MADISON observed, that it was the State Governments in the Seven United Provinces which had assumed to themselves the power of filling vacancies, and not the General Government; therefore the gentleman's application did not hold.

The question on Mr. SEDGWICK's motion for amending Mr. BURKE's proposition was put and lost.

The question was then put on Mr. BURKE's motion, and the yeas and nays being demanded by the constitutional number, they were taken as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Griffin, Groat, Hathorn, Heister, Jackson, Livermore, Matthews, Moore, Page, Parker, Partridge, Van Rensselaer, Seney, Sylvester, Smith, (of South Carolina,) Stone, Sumter, Thatcher, and Tucker.—23.

NAYS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Lawrence, Lee, Madison, Muhlenberg, Schureman, Scott, Sedgwick, Sherman, Sinnickson, Smith, (of Maryland,) Sturges, Trumbull, Vining, Wadsworth, and Wynkoop.—28.

So it was determined in the negative.

The House then resumed the consideration of the proposition respecting the apportioning of the representation to a certain ratio, proposed by Mr. AMES.

When, after some desultory conversation, it was agreed to, as follows: "After the first enumeration, required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred. After which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred, after which, the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor less than one representative for fifty thousand persons."

After which the House adjourned.

SATURDAY, August 22.

Memorials from the inhabitants of Trenton, in New Jersey, Lancaster and Yorktown, in Pennsylvania, were presented, stating their

AUGUST 22, 1789.]

Amendments to the Constitution.

[H. OF R.]

advantages in soil, climate, situation, population, cultivation, and buildings; and praying that the permanent seat of Congress may be established at the same.

The memorials were ordered to lie on the table.

AMENDMENTS TO THE CONSTITUTION.

The House resumed the consideration of the amendments to the constitution.

Mr. TUCKER moved the following as a proposition to be added to the same: "The Congress shall never impose direct taxes but where the moneys arising from the duties, imposts, and excise are insufficient for the public exigencies, nor then until Congress shall have made a requisition upon the States to assess, levy, and pay their respective proportions of such requisitions. And in case any State shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess, and levy such State's proportion, together with the interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed by such requisition."

Mr. PAGE said, that he hoped every amendment to the constitution would be considered separately in the manner this was proposed, but he wished them considered fully; it ought to have been referred to the Committee of eleven, reported upon, and then to the Committee of the whole. This was the manner in which the House had decided upon all those already agreed to; and this ought to be the manner in which this should be decided; he should be sorry to delay what was so nearly completed on any account. The House has but little time to sit, and the subject has to go before the Senate, therefore it requires of us all the expedition we can possibly give it. I would prefer putting a finishing hand to what has been already agreed to, and refer this to the Committee of eleven for their consideration.

Mr. TUCKER.—This proposition was referred to the committee, along with many others in the gross, but the Committee of eleven declined reporting upon it. I understood it to be in any gentleman's power to bring it forward when he thought proper, and it was under this influence that I proposed it, nor do I conceive it to be an improper time. The House is engaged in the discussion of amendments; they have made some progress, and I wish them to go on to complete what they have begun. This may be added without inconvenience, if it meet the sense of the House; but if it does not, I wish my constituents to be acquainted with our decision on the whole subject, and therefore hope it may be decided upon at this time.

Mr. JACKSON.—The gentleman has an undoubted right to bring forward the proposition; but I differ greatly with respect to its propriety. I hope, sir, the experience we have had will be sufficient to prevent us from ever agreeing to a relinquishment of such an essential power. The requisitions of the former Congress were

ineffectual to obtain supplies; they remain to this day neglected by several States. If a sense of common danger, if war, and that a war of the noblest kind, a contest for liberty, were not sufficient to stimulate the States to a prompt compliance, when the means were abundant, by reason of the immense quantities of paper medium, can we ever expect an acquiescence to a requisition in future, when the only stimulus is honesty, to enable the confederation to discharge the debts of the late war?

But suppose requisitions were likely to be, in some degree, complied with, (which, by the by, I never can admit,) in every case where a State had neglected or refused to furnish its quota, Congress must come in, assess, and collect it. Now, in every such case, I venture to affirm that jealousies would be excited, discontent would prevail, and civil wars break out. What less can gentlemen picture to themselves, when a Government has refused to perform its obligations, but that it will support its measures by the point of the bayonet.

Without the power of raising money to defray the expenses of Government, how are we to be secure against foreign invasion? What, can a Government exert itself, with its sinews torn from it? We can expect neither strength nor exertion; and without these are acquired and preserved, our union will not be lasting; we shall be rent asunder by intestine commotion, or exterior assault; and when that period arrives, we may bid adieu to all the blessings we have purchased at the price of our fortunes, and the blood of our worthiest heroes.

Mr. LIVERMORE thought this an amendment of more importance than any yet obtained; that it was recommended by five or six States, and therefore ought to engage their most serious consideration. It had been supposed that the United States would not attempt to levy direct taxes; but this was certainly a mistake. He believed nothing but the difficulty of managing the subject would deter them. The modes of levying and collecting taxes pursued by the several States are so various, that it is an insuperable obstacle to an attempt by the General Government.

He was sensible that the requisitions of the former Congress had not been fully complied with, and the defect of the confederation was, that the Government had no powers to enforce a compliance. The proposition now under consideration obviated that difficulty. Suppose one or two States refused to comply, certainly the force of the others could compel them, and that is all that ought to be required; because it is not to be supposed that a majority of the States will refuse, as such an opposition must destroy the Union. He hoped the States would be left to furnish their quotas in a manner the most easy to themselves, as was requested by more than half of the present Union.

Unless something more effectual was done to improve the constitution, he knew his constituents would be dissatisfied. As to the amend-

ments already agreed to, they would not value them more than a pinch of snuff; they went to secure rights never in danger.

Mr. PAGE wished the proposition might be recommitted, for he was certain there was neither time nor inclination to add it to those already agreed upon.

He observed that the warmest friends to amendments differ in opinion on this subject; many of them have ceased urging it, while others have become strenuous advocates for the reverse. The most judicious and discerning men now declare that the Government ought never to part with this power. For his part, experience had convinced him that no reliance was to be had on requisitions, when the States had treated them with contempt in the hour of danger, and had abundant means of compliance. The public credit stood at this moment in the utmost need of support, and he could not consent to throw down one of its strongest props. He thought there was no danger of an abuse of this power, for the Government would not have recourse to it while the treasury could be supplied from any other source; and when they did, they would be studious of adapting their law to the convenience of the States. He hoped, when the gentleman returned home to New Hampshire, his constituents would give him credit for his exertions, and be better satisfied with the amendments than he now supposed them to be.

Mr. SUMTER felt himself so sensibly impressed with the importance of the subject, that if he apprehended the proposition would not have a fair discussion at this time, he would second the motion of commitment, and had not a doubt but the House would acquiesce in it.

Gentlemen had said that the States had this business much at heart. Yes, he would venture to say more, that if the power was not relinquished by the General Government, the State Governments would be annihilated. If every resource is taken from them, what remains in the power of the States for their support, or for the extinguishment of their domestic debt?

Mr. GERRY thought if the proposition was referred, that it ought to go to a Committee of the whole, for he wished it to have a full and candid discussion. He would have something left in the power of every State to support itself, independent of the United States, and therefore was not satisfied with the amendment proposed. The constitution, in its original state, gives to Congress the power of levying and collecting taxes, duties, imposts, and excise. The fault here is, that every thing is relinquished to the General Government. Now, the amendment gives the same power, with qualification, that there shall have been a previous requisition. This by no means came up to his idea; he thought that some particular revenue ought to be secured to the States, so as to enable them to support themselves.

He apprehended, when this clause in the

constitution was under the consideration of the several State conventions, they would not so readily have ratified it, if they had considered it more fully in the point of view in which he had now placed it; but if they had ratified it, it would have been under a conviction that Congress would admit such amendments as were necessary to the existence of the State Governments. At present, the States are divested of every means to support themselves. If they discover a new source of revenue, after Congress shall have diverted all the old ones into their treasury, the rapacity of the General Government can take that from them also. The States can have recourse to no tax, duty, impost, or excise, but what may be taken from them whenever the Congress shall be so disposed; and yet gentlemen must see that the annihilation of the State Governments will be followed by the ruin of this.

Now, what is the consequence of the amendment? Either the States will or will not comply with the requisitions. If they comply, they voluntarily surrender their means of support; if they refuse, the arms of Congress are raised to compel them, which, in all probability, may lay the foundation for civil war. What umbrage must it give every individual to have two sets of collectors and tax-gatherers surrounding his doors; the people then soured, and a direct refusal by the Legislature, will be the occasion of perpetual discord. He wished to alter this proposition in such a manner as to secure the support of the Federal Government and the State Governments likewise, and therefore wished the amendment referred to a Committee of the whole House.

Mr. TUCKER.—I do not see the arguments in favor of giving Congress this power in so forcible a light as some gentlemen do. It will be to erect an *imperium in imperio*, which is generally considered to be subversive of all Government. At any time that Congress shall exercise this power, it will raise commotions in the States; whereas, the mode of requisitions will operate in so easy a way, by being consonant to the habits of the people, that the supplies will be sooner realized in the treasury by this means than by any other. It will require a length of time to form a uniform system of taxation, that shall operate equally and justly through all the States; though I doubt the possibility of forming such a system. It has been said, that requisitions have not been complied with in former times, but it is to be hoped that there will not be so much difficulty in future. The supplies from the impost will greatly diminish the requisitions; besides, should any of the States refuse to comply, they will be liable to the exercise of the power of Congress in the very heart of their country. This power will be so disagreeable, that the very dread of it will stimulate the States to an immediate and prompt compliance with the requisitions. This amendment has been proposed by several of the States, and by some of the most important

August 24, 1789.]

Amendments to the Constitution.

[H. OF R.]

ones. For this and other reasons that have been offered on the subject, I hope the amendment will be adopted.

Several methods were proposed for disposing of this question for the present; but the motion for its lying on the table being put and negatived, Mr. PARTRIDGE, referring to his instructions, was solicitous that this amendment should not be too precipitately decided upon, and moved the previous question, which was negatived.

Mr. SEDGWICK said, that he believed his mind was as strongly impressed with the force of the instructions he had received from his constituents, as that of other gentlemen. But, sir, a Government entrusted with the freedom and the very existence of the people, ought surely to possess, in a most ample degree, the means of supporting its own existence; and as we do not know what circumstances we may be in, or how necessary it may be for Congress to exercise this power, I should deem it a violation of the oath I have taken to support the constitution were I now to vote for this amendment.

Mr. SHERMAN remarked, that if Congress should exercise this power, the taxes would be laid by the immediate representatives of the people; neither would it be necessary to adopt one uniform method of collecting direct taxes. The several States might be accommodated by a reference to their respective modes of taxation.

The question upon the paragraph being called for from every part of the House, the yeas and nays were taken.

YEAS.—Messrs. Burke, Coles, Floyd, Grout, Hathorn, Livermore, Van Rensselaer, Sumter, and Tucker.—9.

NAYS.—Messrs. Ames, Benson, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gerry, Gilman, Goodhue, Hartley, Heister, Jackson, Lawrence, Lee, Madison, Matthews, Moore, Muhlenburg, Page, Parker, Partridge, Schureman, Scott, Sedgwick, Seney, Sherman, Sylvester, Sinnickson, Smith, of Maryland, Smith, of South Carolina, Stone, Sturges, Thatcher, Trumbull, Vining, and Wadsworth.—39.

Mr. TUCKER proposed the following amendment to the constitution:

Article 1, section 8, clause 9, strike out the words, "tribunals superior to the Supreme Court," and insert the words "courts of admiralty."

And on the question being put, it passed in the negative.

He then moved for a further amendment to the constitution, as follows:

In the third section of the sixth article insert the word "other" between the word "no" and the word "religious."

And on the question that the House do agree to the said amendment, it passed in the negative.

Mr. GERRY moved to add to the amendments already agreed to the following articles, to wit:

"That Congress erect no company of merchants with exclusive advantages of commerce." And on the question that the House do agree to the said proposed article, it passed in the negative.

He introduced another motion, to add to the amendments already agreed to the following article, to wit:

"Congress shall at no time consent that any person holding an office of trust or profit under the United States shall accept of a title of nobility or any other title or office from any King, Prince, or foreign State."

And on the question being put, it was negatived.

Mr. BENSON introduced a resolution to the following purport:

Resolved by the House of Representatives of the United States in Congress assembled, That the following amendments to the constitution of the United States having been agreed to by two-thirds of both Houses, be submitted to the Legislatures of the several States; which, when ratified, in whole or in part, by three-fourths of the said Legislatures, shall be valid to all intents and purposes as parts of the said constitution.

This resolution was referred to a committee consisting of Messrs. BENSON, SHERMAN, and SEDGWICK, who were directed to arrange the said amendments and make report thereof.

ADJOURNMENT.

Mr. GOODHUE moved that the report of the joint committee on the adjournment be made the order of the day for Monday next; passed in the affirmative.

TREASURY BILL.

The committee on the part of the House appointed to confer with the Senate on their amendment to the Treasury bill, being called on to report, Mr. MADISON reported verbally, that the committee had met and conferred upon the subject; that the members on the part of the Senate stated the reasons on which their amendment was founded, which not being satisfactory to the committee on the part of the House, they submitted certain propositions to the committee of the Senate, who, on their part, offered none. Mr. MADISON further reported, that it is the opinion of the committee on the part of the House, that it would not be right for the House to recede from their disagreement.

MONDAY, August 24.

Mr. FITZSIMONS, from the committee appointed, according to order, presented a bill establishing the salaries of the executive officers of Government, with their assistants and clerks, which was received and read the first time.

Mr. BENSON, from the committee appointed for the purpose, reported an arrangement of the articles of amendment to the constitution of the United States, as agreed to by the House on Friday last; also, a resolution prefixed to the same, which resolution was twice read and agreed to by the House, as follows:

H. OF R.]

Proposed Adjournment.

[AUGUST 24, 1789.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses deeming it necessary,) That the following articles be proposed to the Legislatures of the several States as amendments to the constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution.

Ordered, That the clerk of this House do carry to the Senate a fair engrossed copy of the said proposed articles of amendment, and desire their concurrence.

ADJOURNMENT.

The House proceeded to the consideration of the report of the joint committee, on the adjournment.

Mr. VINING was against taking up this report. He thought it appeared absurd to enter into a discussion of the question at this moment; it would necessarily bring on a great deal of debate, and consume much time, and would likewise counteract the object of gentlemen entirely, while so many important subjects were yet undecided, which must be attended to and finished previous to a recess. He moved for a postponement, in order to take up the Treasury bill.

Mr. HARTLEY said, that the honorable gentleman's remarks furnished the best argument for coming to a determination upon the adjournment at the present time, as it was the best way to confine the attention of the House to the essentials which claimed their immediate attention and decision.

Mr. SEDGWICK was in favor of deciding on the report immediately; he contended that the public business would be expedited thereby: this remark, he said, was founded upon experience. When the time is fixed, and gentlemen are fully impressed with the importance of despatching business in a given time, they will exert themselves to the utmost. He had known as much business transacted in the Assembly of Massachusetts in one week, and as well done, as had been before in three. He further observed that many gentlemen were anxious to go home; that the sickly season was approaching, and that if an adjournment does not take place, the members will be so thinned off, that in all probability a much less number than the present will be left to do business.

The motion of Mr. VINING was withdrawn, and

Mr. MADISON proposed the following resolution:

Resolved, That when this House does adjourn on _____ of September next, they will adjourn to the first Monday in December next.

Mr. SCOTT objected to this. He said it was too short a period; it would not admit of the members who lived at the extremities of the Union to go home and return by the time mentioned.

Mr. LIVERMORE was also opposed to it, and proposed to adjourn on the first of September.

Mr. GOODHUE said, he conceived those gentlemen who talked of adjourning on the first of September did not wish for any adjournment at all. He contended for a short adjournment, as proposed by the resolution; some relaxation from business is necessary; it is also expedient to consult our constituents; some alterations may be found necessary in the laws we have enacted. We can judge better of that necessity from our observation and conversation with our constituents in our respective States, than we can from any other information.

Mr. AMES was in favor of the motion, and proposed to fill the blank with 22d September, which was carried in the affirmative.

Mr. SUMTER objected to the shortness of the time of adjournment. The business now before us cannot be completed, if we may judge by what has already taken place. The recess will be so short, that none of the advantages expected to be derived from consulting our constituents can be realized by those from a remote quarter of the Union. Short recesses are attended with great expense. Our conduct in adjourning for so short a time, and leaving so much business unfinished, can never be approved by the people. Gentlemen talk of their private concerns; I do not think that any member has made a greater proportionable sacrifice than I have. But the public good is to be chiefly regarded; we ought not to be influenced by our private concerns. He hoped that some plan of accommodation would take place.

Mr. AMES introduced the foregoing resolutions in the form following, viz: "That the President of the Senate, and the Speaker of the House of Representatives, do adjourn their respective Houses of Congress on the 22d of September next, to meet on the first Monday in December next."

Mr. JACKSON said that the time was too short; it would not admit of the members who come from a distance to consult their constituents, and so far the advantage of an adjournment would be lost. Let us view the matter in another point of light; alarms have been spread respecting the compensations; this will increase those alarms, for it will be said that a very great expense is needlessly incurred. If we sit two months longer, the public business would be so far completed as to supersede the necessity of meeting in December. He thought the adjournment ought to be to the first Monday in March, and the constitution would warrant this; mutual concessions ought to be made for the accommodation of all. At the time proposed, the cold season will be advanced; the ice and snow will prevent the gentlemen at the eastward and northward from attending to their private business; hence that season will be adapted to their convenience. But let us look to the members from the southward; it ought to be considered that their relaxed constitutions will be greatly exposed by the intense cold of this northern cli-

AUGUST 24, 1789.]

Judiciary

[H. OF R.]

mate; besides, it will then be their busy season for planting; some concession ought therefore to be made. The Southern members would sooner forfeit their seats in this House, than be obliged to come here in the winter; this will operate to deprive the remote parts of the Union of their representation. He therefore moved that the time be extended to the first of March.

Mr. GERRY was opposed to so short an adjournment; he stated the expense that would attend it, and made it twenty thousand dollars, a sum that would pay Congress for fifty day's attendance. This, he said, rendered it demonstrable that it would be most prudent for Congress to continue the session, and terminate the business. If it is absolutely necessary to any particular gentleman to go home, leave may be granted. He trusted, he said, that there was no member who thought himself of so much consequence that the Government could not proceed without him, or that Congress thought so; if they should, when such a member departs, the business must stand still. Reference has been had to out-door conversation, and we are cautioned to beware of exciting popular clamor. But he trusted that ideas of this kind are not to influence the deliberations of this assembly, or deter us from deciding what we think is just and best.

Mr. JACKSON said, he was surprised to hear a gentleman cautioning the House against being influenced by public clamor, and the opinion of people out of doors, especially as that gentleman has, within a fortnight past, raised more bugbears from that source than all the House besides.

Mr. BOUDINOT said, that he supposed the time between this and the adjournment will be sufficient to complete the organization of the Judiciary and Executive Departments. The adjournment will, in the common course of events, allow the members from Georgia three or four weeks to be at home. A short recess is absolutely necessary, a long one may be highly injurious.

Mr. VINING recapitulated a number of articles now pending before Congress, upon which it is presumed that it is not necessary to consult our constituents. We already know their sentiments; this business must absolutely be attended to, and completed previous to a recess. He was opposed to the motion for adjourning till March; but on a conciliatory plan he would agree to the first of January.

Mr. TUCKER said, he conceived that the business was taken up wrong; the resolution proposed was entirely improper; it puts it in the power of the Speaker, with the concurrence of the Senate, to adjourn the House on that day, let circumstances be what they may. This was unprecedented, and could not be agreed to.

Mr. JACKSON called for the previous question on Mr. AMES's motion, and on the question, Shall the main question now be put? it passed in the affirmative.

The main question being put, it passed in the affirmative, by a large majority.

The amendment of the Senate to the Treasury bill was taken into considerations, and Mr. MADISON, from the Committee of Conference, made a verbal report.

Mr. VINING moved that the House would now adhere to their disagreement to the amendment of the Senate.

MESSRS. SHERMAN, PAGE, and GERRY made some observations against the motion, which was, however, carried in the affirmative.

JUDICIARY.

The House now resolved itself into a Committee of the whole on the bill sent from the Senate, entitled "An act to establish the Judicial Courts of the United States." Mr. BOUDINOT in the chair.

On motion of Mr. BENSON, the word "federal" was struck out of the first clause.

Mr. LIVERMORE moved to strike out from the clause "the Supreme Court shall consist of a Chief Justice and four Associate Justices" the word "four," and insert "three" in its stead.

Mr. SEDGWICK supposed the motion went to strike out the subsequent sentence, where a quorum was defined; he was opposed to this, because he thought a quorum ought to consist of a majority of the Judges, in order that there might be some stability in their decisions. It was of great importance to have the law established in such a way as not to be subjected to frequent changes.

Mr. JACKSON inquired how a point of law could be determined when four Judges were on the bench, and they decided two and two? He hoped they would be either increased or diminished, and therefore should vote for striking out.

Mr. LIVERMORE did not apprehend that the Associate Judges would always be on the bench, and therefore meant to strike out one of the number affixed, as a quorum.

Mr. BENSON said, the Senate had employed a great deal of time in perfecting this bill, and he believed had done it tolerably well; besides, the session was now drawing to a close; he therefore wished as few alterations as possible to be made in it, lest they should not get it through before the adjournment.

Mr. GERRY inquired whether it was essential that the Chief Justice should be on the bench in order to form a Supreme Court? If it was not, there might be two Supreme Courts sitting at the same time, provided they increased the Associate Justices in the manner talked of by one gentleman, and diminished the quorum in the manner hinted at by another.

Mr. JACKSON said, the decisions of the courts in England were not to influence the House, when they had an opportunity of improving a plan that was defective.

Mr. LIVERMORE's motion was negatived.

Mr. BURKE moved that "Chief Justice" should be struck out. It is, he said, a concomitant of royalty. Mr. BENSON observed, that this was a provision of the constitution; and upon this information Mr. BURKE withdrew his motion.

H. OF R.]

Judiciary.

[AUGUST 24, 1789.]

Mr. TUCKER was in favor of striking out the whole clause, and against dividing the United States into districts, for the purpose of instituting inferior Federal courts. He said the State courts were fully competent to the purposes for which these courts were to be created, and that they would be a burthensome and useless expense. Mr. SUMTER seconded the motion.

Mr. LIVERMORE was against striking out the whole clause. He wished to have the United States divided into districts; but he concurred with the other idea of the gentleman. He wished for all the districts, except in Kentucky, to be abolished; for the sake of forming a Court of Admiralty in each, authorized not only to take cognizance of all marine concerns, but also of all seizures.

Mr. TUCKER said, he did not move to strike out the districts to prevent the establishment of Admiralty Courts; he approved of such courts; but he presumed the States compose sufficient districts. This motion was negatived.

Mr. LIVERMORE then moved to strike out the words "one to be called Kentucky district." He observed, that as the matters which would come under the cognizance of these courts would be chiefly of a marine nature, Kentucky, from its situation, could have nothing to do with them; consequently, to establish them there would be a needless expense.

This motion was determined in the negative.

Mr. LIVERMORE.—I now move you, sir, to strike out the whole of this clause. I fear this principle of establishing Judges of a Supreme Court will lead to an entire new system of jurisprudence, and fill every State in the Union with two kinds of courts for the trial of many causes. A thing so heterogeneous must give great disgust. Sir, it will be establishing a Government within a Government, and one must prevail upon the ruin of the other. Nothing, in my opinion, can irritate the inhabitants so generally, as to see their neighbors dragged before two tribunals for the same offence. Mankind in general are unfriendly to courts of justice; they are vexed with law-suits for debts or trespasses; and though I do not doubt but the most impartial administration of justice will take place, yet they will feel the imposition burthensome and disagreeable. People in general do not view the necessity of courts of justice with the eye of a civilian; they look upon laws rather as intended for punishment than protection; they will think we are endeavoring to irritate them, rather than to establish a Government to sit easy upon them.

Will any gentleman say that the constitution cannot be administered without this establishment? I am clearly of a different opinion; I think it can be administered better without than with it. There is already in each State a system of jurisprudence, congenial to the wishes of its citizens. I never heard it complained that justice was not distributed with an equal hand in all of them; I believe it is so, and the people think it so. We had better then continue

them than introduce a system replete with expense, and altogether unnecessary.

Nor will this expense be inconsiderable; we must have a double suit of salary judges, attorneys general, marshals, clerks, and constables, together with jails and court-houses; and all this for what? To try a man over again, who has been acquitted by the State courts, in cases of concurrent jurisdiction, or from an apprehension that the State courts may err. The State courts have hitherto decided all cases of a national or local import; and it was never heard that they determined with any degree of partiality. Perhaps a maritime case, that was carried by appeal before the court for final determination in cases of capture, where the judgment was reversed, may be thought an exception; but whether this case was decided rightly or wrongly at last, I shall not pretend to say at present. Now, if the State courts have hitherto had cognizance of similar cases, and proceeded on them with impartiality, what occasion is there for a new institution? I cannot possibly conceive it, unless it be to plague mankind.

But, besides the expense of judges, marshals, &c., there will be another difficulty; there must be procured jurors for such courts, for I presume it is not intended that they shall try causes without a jury. Now, how is this jury to be constituted? Are they to come to the Supreme Court from the county in which the offence has been committed, or is the court to go to that place? We have heard cases spoken of, to arise under the mountains of Carolina, and be dragged down to the sea-shore; but the inconvenience of three or four hundred miles is nothing compared to what may take place under this system. Certainly this consideration must offer difficulties to every gentleman's mind; difficulties which can easily be avoided by pursuing another route.

But after the trial follow judgment and execution. Now what mode will you pursue to complete your process? There are various ways of levying an execution in the different States; in some States the land is attached; in others, the personal estate; sometimes the debtor is confined in jail, or, in case he breaks jail, the county has to pay the debt. I hope the Government will not adopt this last mode, or escapes may be made in great number. I apprehend we shall find the execution offer no inconsiderable obstacle to our system.

Now, why engage in a plan so obnoxious and difficult without necessity? Gentlemen will not pretend to be afraid of erroneous decisions, because they may be subject to appeal and revision, which furnishes as great security as it is possible to have in any system of jurisprudence whatever. For my part, I contemplate with horror the effects of the plan; I think I see a foundation laid for discord, civil wars, and all its concomitants. To avert these evils, I hope the House will reject the proposed system.

On motion, the House now adjourned.

AUGUST 27, 1789.]

Permanent Seat of Government.

[H. OF R.]

TUESDAY, August 25.

SALARIES OF EXECUTIVE OFFICERS.

The bill for establishing the salaries of the executive officers of the Government, with their assistants and clerks, was read the second time, and committed to a Committee of the whole.

The House resolved itself into a Committee of the whole, on the bill to provide for the safe-keeping of the acts, records, and seal of the United States; for the due publication of the acts of Congress; for the authentication of the copies of records; for making out and recording commissions, and prescribing their form; and for establishing the fees of office to be taken for making out such commissions, and for copies of records and papers; Mr. BOUDINOT in the chair.

After some time spent thereon, the committee rose, and reported progress, and obtained leave to sit again.

A message from the Senate informed the House that they recede from so much of the eighth amendment to the bill to establish the Treasury Department, as was disagreed to by the House, and insisted on by the Senate; and that they have also agreed to the resolution of the House of the 24th instant, appointing the time for the adjournment of both Houses of Congress. The House then adjourned.

WEDNESDAY, August 26.

SALARIES OF EXECUTIVE OFFICERS.

The House again resolved itself into a Committee of the whole, on the bill to provide for the safe-keeping of the acts, records, and seal of the United States; for the publication of the acts of Congress; for the authentication of the copies of records; for making out and recording commissions, and prescribing their form; and for establishing the fees of office to be taken for making such commissions, and for copies of records and papers; Mr. BOUDINOT in the chair.

The committee having gone through the bill, reported it, with the amendments made thereto, to the House; which being agreed to,

Ordered, That the bill, with the amendments, be engrossed, and read the third time tomorrow.

A message from the Senate informed the House that the Senate had passed the bill for registering and clearing vessels, regulating the coasting trade, and for other purposes, with several amendments; to which they desired the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the said bill; and after having made some progress therein, the House adjourned.

THURSDAY, August 27.

The engrossed bill to provide for the safe-keeping of the acts, records, and seal of the United States; for the due publication of the acts of Congress; for the authentication of the copies of records; for making out and recording

commissions, and prescribing their form; and for establishing the fees of office to be taken for making out such commissions, and for copies of records and papers, was read a third time; and passed.

The House resumed the consideration of the amendments proposed by the Senate to the bill for registering and clearing vessels, regulating the coasting trade, and for other purposes; and agreed to all the amendments, with amendments to the third and fifty-seventh amendments, as follows:

Third amendment.—In lieu of the words proposed to be stricken out by the Senate, insert the words, "shall be in the form following, viz."

Fifty-seventh amendment.—After the word "sworn," in the clauses proposed to be inserted by the Senate, insert the words "or affirmed."

Mr. GERRY, from the committee appointed to prepare and report an estimate of the supplies requisite for the present year, made a further report; which was read, and ordered to lie on the table.

Mr. SMITH (of South Carolina) from the committee appointed for the purpose, presented a bill providing for the establishment of hospitals for the relief of sick and disabled seamen, and prescribing regulations for the harbors of the United States; which was received, and read the first time.

The House proceeded to consider the report of the committee to whom was referred a letter from the Postmaster General, which lay on the table; whereupon,

Ordered, That the said report be committed to MESSRS. BOUDINOT, GOODHUE, and LEE.

PERMANENT SEAT OF GOVERNMENT.

Mr. SCOTT, agreeably to notice given, moved the following: "That a permanent residence ought to be fixed for the General Government of the United States at some convenient place, as near the centre of wealth, population, and extent of territory, as may be consistent with convenience to the navigation of the Atlantic ocean, and having due regard to the particular situation of the Western country."

He then moved to make this motion the order of the day for Thursday next.

Mr. SMITH, (of South Carolina,) moved to let it lie on the table.

Mr. SHERMAN objected to it. He thought the House had as much business of importance already before them as they could possibly despatch, without entering on this. Neither was the Government in possession of resources at present for the establishment of a federal town. He therefore moved to defer taking this motion into consideration until the second Monday in December.

Mr. HARTLEY was in favor of the motion, and hoped it would prevail. Those gentlemen, he said, who lived near New York, might perhaps be satisfied if it was not discussed for years to come: but justice to the Union at large, and to the inhabitants of this city in particular, required

H. OF R.]

Permanent Seat of Government.

[AUGUST 27, 1789.]

that it should be soon settled. They were going to incur great expenses for erecting a palace for the President, and for other objects. If the presumption on which this project was founded was not well grounded, it was just and proper that they should be undeceived, and not induced to spend their money without a prospect of compensation. A regard to their interests, therefore, required that we should let them know what they were to depend upon. He thought, also, that some attention ought to be paid to the petitions of the people respecting a permanent seat of Government.

Mr. BURKE said, he thought it would be doing great injustice to the Southern States to fix on so early a day in the next session, as it was probable that the members for those States would not have assembled by that time.

Mr. FITZSIMONS thought the present time was the most proper to determine this business. There was now a pretty full representation. It was not probable, he said, that, at any future time, there would be so great a number collected; certainly at no period of the winter season. He acknowledged there was business of great importance before Congress; but was there any more important than the subject proposed? It was a question in which the people of every part of the Union were deeply interested. As to the expense, that was an after consideration. The present object was only to fix the place; and whether the removal was to be made this year or the next, was a different affair. It had been remarked, that jealousies existed among the States. They were not likely to be removed by inattention to so great a concern.

Mr. SHERMAN said, it was merely to accommodate the gentlemen who were so urgent, that he moved the second Monday in December. It was evident that there would be too little time this season. But if the gentleman from South Carolina thought it too early a day for the Southern members to meet, he was willing to agree to a more distant day.

In addition to the arguments adduced for deferring this matter, there was another important consideration. The Union was not yet complete. North Carolina and Rhode Island had not a voice in the Legislature. He thought, nevertheless, their wishes and interest ought to be consulted; and, in a transaction which is to affect them so essentially, they ought to have a concurrent voice. It was supposed, and that upon good grounds, that it would not be long before North Carolina would be united to the Government. She was entitled to six voices, and Rhode Island to one. The continent ought to be properly balanced on this question.

Mr. SMITH (of S. Carolina,) moved that the first Monday in January next should be assigned for taking up this subject. He was against entering upon it at present, because the House had more important business before them, which could not be deferred without material injury to the Government. The Judiciary bill, he said, was pressing, and had been the order of the day

for several weeks. The funding of the public debt was an object of great magnitude, and was earnestly expected. If the House did the duty that they owed to their constituents, it was of little importance in what place it was executed, provided it was done, and done to their satisfaction.

Mr. SCOTT thought the principles of the Union were the principles of equal justice and reciprocity. He conceived the question now before the House as grand a link as any in the federal chain. The future tranquillity and well-being of the United States, he said, depended as much on this as on any other question that ever had or could come before Congress. It was a justice due to the extremities of the continent to adopt some measure. It being, therefore, a point with them, and of justice too, he could not conceive how any gentlemen, who had the welfare of their country at heart, could oppose it.

The resolution held out this general idea, that the seat of the Federal Government ought to be fixed at the most central place, with respect to population and territory, having an equal regard to the Atlantic and the western parts of the Union. When the central line between the northern and southern extremities was fixed, no person in the Western Territory had ever wished any thing further than that Congress should establish their seat as far back on this line as the convenience of maritime commerce would allow.

He thought those people expected—they had a right to demand it—as it was founded on justice. If, then, this principle was allowed, the subject would speedily be determined, and could not involve much debate, because they had nothing more than to find that spot in which the centres were combined.

This he conceived to be a favorable moment to determine the great question that had agitated the minds of the people for several years. We might be assured, that at this time Congress possessed all their virtue and innocence; but it might be feared that would not be the case in future. Congress were now free from all factions, and as devoid as possible of the spirit of party and local views. It may happen that in a future day faction may compel Government to fix on some improper place, and one of two events would result from this: either they would be obliged to remove after expending great sums of money on this imprudent establishment, or the Union would be dissolved.

Mr. LIVERMORE said, that the two Houses had come to a resolution to adjourn next month. Many weighty matters were still before the Legislature. How long a time the discussion of this subject would require was uncertain; it might engross a deal of time, and be productive of animosity and party spirit, which the measure itself proposes to guard against. He wished first to have the organization of Government finished, and those important duties fulfilled which the public anxiously expected.

AUGUST 27, 1789.]

Permanent Seat of Government.

[H. OF R.]

He did not understand, he said, that any gentleman was uneasy in his present situation. He had not heard any complaints. Congress are well accommodated for the present in this city. There may be other places, no doubt, where Congress might be accommodated; but he believed both the citizens of New-York and the members of the Legislature were mutually satisfied. He had not heard of any memorial from the former informing Congress that they were tired of them, or requesting them to remove. Many parts of the country appear extremely anxious to have Congress with them. There is Trenton, Germantown, Carlisle, Lancaster, Yorktown, and Reading, have sent us abundance of petitions, setting forth their various advantages; we wish the inhabitants may enjoy the benefits of them, and if they are pleasantly situated, and have plenty of fish, we are very glad to hear it; and if it should ever suit Congress to remove to any of them, why Congress will enjoy the benefit of them also.

He could not see any reason that all the important matters should be postponed in order to consider this. If all these matters could be despatched by next spring, and the road should be impassable, he would be for taking it up.

He said the idea of a permanent seat of Government was not in itself strictly true. As population increased, and men of new principles and views took their seats in Congress, this permanent seat might be altered at pleasure. It was certainly wise in Congress to be economical; a removal was always found very expensive; the finances of their country were not at present adequate to new expenses, consequently they ought not to be incurred. He further observed, that a great variety of objects were necessary to be considered in fixing the seat of Government, besides the mathematical centrality; the salubrity of the situation was a capital circumstance. He hoped the subject would not be taken up this session.

Mr. SCOTT thought the gentleman treated the subject in a cavalier manner; it might be well in him to do so, as he did not like a long journey; but he hoped the House were not disposed to trifle with a subject of this magnitude.

Mr. JACKSON said, upon this subject depended the existence of the Union. The place of the seat of Government was important in every view. It might be compared, he said, to the heart of the human body; it was the centre from which the principles of life were carried to the extremities, and from these it might return again with precision.

It was indifferent to him whether the subject was determined now or at the next session, but he thought it best that the motion should lie on the table.

—Mr. SUMTER seconded this motion.

Mr. STONE remarked, that this was a very important business, and required a deal of caution to conduct it. He knew of no question that would have a greater tendency to produce broils and dissensions. It was often the case that

unhappy divisions arose, chiefly from an indiscreet mode of conducting business of this kind. He was glad to see the temperate spirit with which the House began, and wished it might continue; but he apprehended that no question would so fully prove the temper of this body as the present.

The question was then taken on Mr. SMITH's motion, and lost—yeas, 21, nays 30.

Mr. Speaker being about to put the question on the second Monday in December,

Mr. AMES inquired if the motion to adjourn on the twenty-second of September was not inconsistent with the resolution now offered to the House? A committee had been appointed to report the business of the present session. The committee reported, and so much of that report was accepted as related to the time of adjournment. It therefore appeared to him, that the proposition to take up this subject at the present time was superseded. He was confident it was inconsistent with that determination. It would become necessary to rescind the determination; but whether that would be done or not, depended on the disposition of the Senate. Should they not concur, the House would waste their time, and be obliged to leave the most important business unfinished.

He said he could not suppress some emotions of surprise that gentlemen should propound questions which had not for their object the complete organization of the Government. It lies, as yet, prostrate and inanimate; and instead of infusing life into it, and giving motion to the machine, we have been altering our constitution, and are now entering into a lengthy discussion to determine where we shall sit.

If the gentleman's motion only involved a few abstract propositions in it, it would not be of much importance; but he saw how difficult their decision would be. Were I a stranger, I should apprehend, from the manner in which the motion had been introduced, that it would be a question agitated with as much acrimony as any whatever.

I ever found it a difficult task, on the most trivial occasions, to obtain unanimity. What, then, must be the division on a question, which some gentlemen have said the very existence and peace of the Union depends upon? I believe it will involve as many passions as the human heart can display. Every principle of local interest, of pride and honor, and even of patriotism, are engaged. If the good of the Union requires that the seat of Government should be fixed at Pittsburg, I am willing to pledge myself to the honorable gentleman I will vote for it; but I must now vote for postponing the business. It is not sufficient to determine where the seat of Government ought to be, but it is necessary the public mind should be prepared to concur with ours. In the decision of questions of this magnitude, where our interests are so materially concerned, the reasons ought to be made public, and they ought to correspond with those of the people.

H. OF R.]

Public Creditors.

[AUGUST 28, 1789.]

When I left my constituents, I had no conception of proceedings like this; neither have I as yet formed my opinion; when I do, I pledge myself that it shall not spring from local or selfish principles.

The honorable gentleman has introduced this subject as a very important one: we will consider it as such. If only the centre was to be determined, it might be settled in a very short time. If the oaks and the mountains are to be numbered; if the acres in the United States are also to be the ground of our decision, perhaps a few days' calculation may settle the business.

My opinion is, that the centre of Government ought to be a centre of convenience and utility; that the heart should be so placed as to propel the blood to the extremities, with the most equable and gentle motion. I would place the Government where it might most effectually guard the extremes, and protect the weak parts. I sincerely wish that the territory now subject to the laws of the Union may continue so, and that Government may be so situated as to be enabled to exert its force with the best advantage to ensure the preservation of the Union, and compel obedience to its laws.

The gentleman from Connecticut (Mr. SHERMAN) has justly said that North Carolina and Rhode Island should have a voice in this business.

He said he would not impute unworthy motives to the gentleman who introduced the motion, but would ask him whether the people at large ought not to be equally convinced of their purity? whether, in justice to himself, and to the subject generally, the public mind ought to be better prepared for the occasion? He was not convinced that the Government, ill cemented and feeble as it is, could stand the shock of such a measure; and therefore he most earnestly deprecated the event.

Mr. SCOTT said, that rather than lose so much time in debating as to the time when the business should be taken up, he would consent to let it lie on the table till it was called for; for he conceived the last vote showed the sense of the House to be in favor of taking it up at the present session.

Mr. HARTLEY said, that he was of opinion with his colleague, that the sentiments of the House were fully established by the last vote, and therefore hoped gentlemen would permit the question to be taken without prolonging the debate.

Mr. SEDGWICK could wish as early a period as might be for taking up the business. He had no idea that the seat of the Federal Government should be in New York, or in any place so far north as this city; he would have no objection to attending to it immediately, if it was supposed Congress had time to discuss it temperately. Impressed with this idea, he would wish it deferred until the last Tuesday in December.

Mr. AMES said, that he did not wish to evade the question, but was fully of opinion with his

colleague, that it could not now be discussed, and therefore joined him in wishing it might be postponed until the last of December.

The question being put for the last Tuesday in December, it passed in the negative—yeas 21, nays 29.

Mr. HARTLEY insisted upon the motion for making it the order of the day for next Thursday.

Mr. WADSWORTH said, that he had no objection to it, for he was ready to meet the question, since gentlemen were so extremely pressing in bringing it forward.

Mr. SMITH, (of South Carolina,) moved to make it conditionally the order of the day for Thursday sennight; that is, provided the House had gone through the Judicial bill.

Mr. PAGE approved of Thursday sennight, and hoped the question would be discussed with temper.

The question on Thursday sennight was put and lost.

On the question for making it the order of the day for Thursday next, it passed in the affirmative—yeas 27, nays 23.

And then the House adjourned.

FRIDAY, August 28.

PUBLIC CREDITORS.

Mr. FITZSIMONS presented the following petition from the public creditors in the State of Pennsylvania:

To His Excellency the President, and the honorable the Senate and House of Representatives of the United States:

The memorial and petition of the public creditors who are citizens of the commonwealth of Pennsylvania, by their committee duly authorized and instructed,

MOST RESPECTFULLY SHOW,

That your memorialists, influenced by a faithful and uniform attachment to the happiness and glory of their country, behold, with peculiar satisfaction, the establishment of a Government which is expressly constituted to promote and perpetuate union, order, and justice, the great sources of national prosperity: and when they consider the characters that are appointed to organize and administer this system, they embrace the most flattering hope that in its execution will be found an ample performance of the auspicious promises which are contained in its principles. From this anticipation, indeed, your memorialists, whose services and sufferings in the public cause cannot require a particular attestation, have derived that consolation which the imbecility of the former Union, and the political vicissitudes of their own immediate State, would not permit them to indulge.

In the hour of extreme necessity, when complicated want enfeebled, and impending ruin agitated, their country, your memorialists avow an honorable pride in the remembrance of the exertions by which they then essentially contributed to her protection and safety. At the same time they partook of the toils and dangers of active life, and suffered in the ruinous depreciation of the paper currency, at least in common with their fellow-citizens, the wealth which had been transmitted to them by their ances-

AUGUST 28, 1789.]

Public Creditors.

[H. OF R.]

tors, or accumulated by their industry; the fund which prudence had hoarded to administer comfort to old age, and the supply which humanity had provided for the helpless infant or the solitary widow, they advanced with a liberal and patriotic hand to relieve the exigencies of the Union. The public faith was pledged by every solemnity of assurance; the honor of the States was bound, by every tie of gratitude, to compensate so memorable a sacrifice of private interest and personal immunity. Yet your memorialists, calling your attention to a melancholy retrospect, might remind you of the ineffectual though virtuous efforts of the late Congress to discharge the national engagements, might describe the apparent disregard of the States for their confederated sovereignty, though recently purchased through a long and bloody conflict; and, in the language of calamity and complaint, might deplore the disappointment, the poverty, the wretchedness, and the anguish, which afflicted the first and firmest patriots of the Union; excluding them from a participation in the triumphs of independence, and embittering their love of liberty with a painful sense of the injuries which they sustained. Such reflections, however, your memorialists cheerfully dismiss, in the contemplation of that compact which, providing for the dignity and honor of the Union, has made the payment of the public debt a fundamental principle of the Government, and, having imposed the obligation, has also created an adequate power to discharge it.

But your memorialists now humbly confess that they have waited in anxious suspense for some evidence of the disposition of Congress upon this interesting subject. They admit the general importance of the arrangements which have occupied the attention of the Federal Legislature; and they particularly rejoice in the foundation that has been laid for the production of an efficient revenue. Those, however, are but preliminary steps to the attainment of the principal object of the new system; and should Congress adjourn without any more decisive act for the restoration of public credit, the mere institution of offices or the regulation of imposts will hardly protect the American character from the derision of its enemies, or the reproaches of those who have hitherto thought that the want of power was its only imperfection.

Your memorialists, with the utmost deference, beg leave to represent, that public credit is the vital spark of modern policy. For the history of the world demonstrates, that whatever may be the extent of territory, the degree of population, or the fertility of soil, unless the faith of national engagements is placed upon a basis inviolable and immutable, the advantages of nature will be lost in the uncertainty of their enjoyment, and Government will afford no encouragement to industry or protection to virtue; but, while it oppresses with its power, must corrupt by its example. The domestic experience of America renders it unnecessary, indeed, to explore the annals of ancient or cotemporary nations, in order to collect this salutary lesson; and there is only wanting an exercise of that wisdom which it inculcates to convert her calamity into a blessing, and make the remembrance of what has been lost the instrument of securing what may yet be acquired. The decay of public credit, engendering licentiousness and anarchy, has once threatened the perversion

of all that was noble in her exertions, and the waste of all that was valuable in her success. To avert a similar danger, the most unequivocal demonstration of an intention to restore the faith and purity of her name is naturally expected from the guardians of the public interest and honor. And your memorialists now fervently pray them to consider, that procrastination, in a business of so delicate a nature, may be as fatal as a defect of power, or a want of disposition to be just.

In the resources of the Union your memorialists discover an ample fund, and in the conduct of their fellow citizens they perceive a fair and honorable desire to discharge the engagements which were incurred in the common cause. The only task, therefore, that seems to be imposed upon the present Government is, to adopt that mode which shall be best calculated to promote the public welfare, at the same time that it does justice to the individuals who are interested. Immediately to pay off the public debt, principal and interest, if not impracticable, would be greatly inconvenient, and is certainly unnecessary; for the example of those nations who enjoy the highest commercial reputation has evinced that a permanent appropriation for the punctual payment of the interest will enable the public creditor to enjoy, by the facility of a transfer, all the advantages of the principal, without injuring the credit of the country, or straining her resources.

Your memorialists, in addition to these observations, beg leave respectfully to suggest, that it has been the deliberate opinion of some of the most enlightened statesmen that a certain amount of funded debt (and surely the debt of the United States would not be deemed too great) is a national benefit. The creation of a new species of money by this means, naturally increases the circulation of cash, and extensively promotes every kind of useful undertaking and enterprise in agriculture, commerce, and mechanics. On this ground alone, therefore, the advantages of a funding system would be sufficient to justify its establishment; but there are other arguments arising from the political situation of America, which ought to render it, in this country particularly, an object of favor and attention. It has been well maintained that, after the revolution in England, a funding system was there encouraged as the best means of attaching the great and powerful body of stockholders to the Government. The policy which prevailed in that case is infinitely more forcible when applied to the case of the United States; for the credit of the Union being perfectly established, every citizen, who has not originally, will be desirous of becoming, a proprietor in the public funds; those individuals who may hitherto have been inimical to the principles of the revolution, or averse to the adoption of the subsisting constitution, will be irresistibly invited to partake of the benefits, and consequently to promote the prosperity of the confederation; each State will find an interest in the welfare and punctuality of the rest; the Federal Government will be zealously supported as a general guarantee; and, in short, a debt originating in the patriotism that achieved the independence, may thus be converted into a cement that shall strengthen and perpetuate the Union of America.

Your memorialists conceive that it would be superfluous to prosecute a detail of the immediate or collateral benefits which a funding system would produce,

H. OF R.]

Judiciary.

[August 29, 1789.]

whether by stimulating domestic industry, or attracting foreign capitals to the aid of the husbandmen, merchants, and artists of America. It is enough, in this respect, to urge that justice, humanity, and policy require the earliest consideration of the claim which is now respectfully submitted. Nor can it be incumbent on your memorialists to obviate the suggestions of that pernicious policy which aims at once to plunder them of their only hope, and to undermine the foundations of an infant Government, even before the structure is complete. Let it not be recorded in the history of the revolution, that, while the monarchy of Britain generously cherished and indemnified every friend to prerogative and usurpation, a triumphant republic suffered the prompt and zealous supporters of the standard of liberty to languish in a sad and necessitous obscurity, to lament over those vouchers of property and services that tend at once to remind them of the equality which they formerly maintained among their fellow-citizens, to mark their present distress and penury, and to stigmatize the wanton ingratitude of their country.

When, indeed, it is considered that many of the members of your honorable body have also been affected by the destructive operations and expedients of the late war, and that all are in the actual enjoyment of that sovereignty which has been principally purchased by the personal exertions and voluntary aids of such as are denominated public creditors, it would be unjust to the feeling, integrity and gratitude of those whom they now address, were your memorialists for a moment to admit a supposition that a solemn appeal thus brought before you, in the name of so numerous a class of meritorious citizens, could be neglected or forgotten.

By the glorious remembrance, therefore, of the past; by the rich prospect of the future; by the obligations which the representatives of the public owe to the surviving orphans and widows of those who have bravely fought the battles of the Union, or nobly supplied its wants in the times of peril and distress; and by the regard which is due to the peace and happiness of posterity; your petitioners implore your immediate aid and interposition, rejoicing that their humble solicitation for justice and humanity necessarily includes a prayer for the revival of public credit, and the advancement of the national honor.

Matthew Clarkson, Charles Petit, Thomas L. Moore, Christopher Marshall, junior, Robert Smith, James Milligan, Jonathan D. Sergeant, Richard Fullerton, Joseph Ball, Samuel Miles, Peter Wikoff, John Chaloner, Thomas M'Kean, John Nixon, Walter Stewart, Blair M'Clenachan.

PHILADELPHIA, August 21, 1789.

HOSPITAL FOR SEAMEN.

A bill providing for the establishment of hospitals for the relief of sick and disabled seamen, and prescribing the regulations for the harbors of the United States, was read the second time, and ordered to be committed to a Committee of the whole House on the fifteenth of September next.

SALARIES OF EXECUTIVE OFFICERS.

The House, according to the order of the day, resolved itself into a Committee of the whole, on the bill for establishing the salaries of the

executive officers of Government, with their assistants and clerks; and after some time being spent therein, the committee rose, and reported that the committee had gone through the same, and made several amendments thereto; which were twice read, amended, and agreed to by the House; and the bill, with the amendments, were ordered to be engrossed and read the third time to-morrow.

COLLECTION OF REVENUE.

Mr. GOODHUE, from the committee appointed for the purpose, presented a bill to suspend part of an act to regulate the collection of duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandise imported into the United States; which was received and read the first time.

After which the House adjourned.

SATURDAY, August 29.

A message from the Senate informed the House that they agreed to the amendments made by this House to the third and fifty-seventh amendments proposed by the Senate to the bill for registering and clearing vessels, regulating the coasting trade, and for other purposes.

An engrossed bill for establishing the salaries of the executive officers of Government, with their assistants and clerks, was read the third time, and passed by the following vote:

YEAS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Gale, Goodhue, Griffin, Hartley, Heister, Jackson, Lawrence, Lee, Matthews, Moore, Scott, Sedgwick, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Sturgis, Trumbull, Tucker, Wadsworth, and Wynkoop.—27.

NAYS.—Messrs. Coles, Floyd, Foster, Gerry, Grout, Hathorn, Livermore, Parker, Partridge, Van Rensselaer, Schureman, Seney, Sinnickson, Stone, Sumter, and Thatcher.—16.

A petition from Abraham Westervelt was presented to the House and read, praying an exclusive patent may be given him for manufacturing shell buttons of different dimensions, the art of doing which he has lately discovered.

Also, a petition from sundry inhabitants of that part of the State of New Jersey, known by the name of East New Jersey, praying that the District Court of the United States, to be held within the said State, may be fixed at Perth Amboy, as a place most central and convenient to the inhabitants of the said State at large.

Ordered, That the said petitions do lie on the table.

THE JUDICIARY.

Mr. BOUDINOT in the chair.

Mr. LIVERMORE said, that he had before moved to strike out the whole section; but as he had spoken pretty largely on the subject when it was last before the House, he should say very little now; but the fate of this clause

AUGUST 29, 1789.]

Judiciary.

[H. OF R.]

he apprehended would determine the fate of the bill.

He wished Congress to establish State Courts of Admiralty, and reject this system, because it would be attended with great inconvenience and expense. The salaries of thirteen district judges, and the necessary buildings for their accommodation, is no inconsiderable saving to a people oppressed so severely by the burthens of the late war. But an objection, in my mind, of greater weight is, that you establish two jurisdictions in the same place. The bill proposes that the State courts shall have concurrent jurisdiction with the district courts. Now under these two establishments debtors may be worried and distressed more than is necessary for the plain and simple administration of justice. A debtor may be in the custody of a State officer, or he may be committed to prison; at the same time there comes an officer from the continental court, what is to be done with the unfortunate person? Is the man to be divided, that one half may appear in one court, the other in another? Can you force the prison, and take him into other custody? or can you compel him to attend a court on the return of the writ, if he is not in your power? If this can be done, your system will furnish opportunities for collusion. A person may be in confinement for an actual debt sued in the State courts, when the marshal of the district shall wrest him out of the hands of the sheriff for a fictitious debt, intended to operate as a rescue. Perhaps gentlemen may think the same jail will answer for both; but you cannot have two keepers of the same jail, and one will refuse to obey a foreign authority. If these objections could be obviated, I should think more favorably of the bill. But, for my part, I cannot see how it is possible. We have supported the Union for thirteen or fourteen years without such courts, from which I infer that they are not necessary, or we should have discovered the inconvenience of being without them; yet I believe Congress have always had ample justice done in all their claims; at least, as I said before, I never heard any complaint, except the case of an appeal on a capture. Now, if we have a Supreme Court, to which appeals can be carried, and an Admiralty Court for deciding cases of a maritime nature, our system will be useful and complete. Why should we suppose that the administration of justice will not be continued with its wonted impartiality? Suppose a merchant gives a bond to pay one hundred dollars duty, cannot that bond be recovered as well and speedily in the State courts as in any continental court whatever? But admitting the judges may be partial, will not the same jury be employed? The jurors must come from the vicinage, and in all probability the district judges will be composed of gentlemen who preside on the benches of the State courts. Now, in this case, it is the same to the Government, to foreigners, and to citizens. But if a distinction is necessary, it can only be

with respect to maritime affairs, dependent on the law of nations; and for this reason we mean to make a provision by instituting Courts of Admiralty. If justice cannot be had here, there will be an appeal to the federal Supreme Court, which is all that can be required. Now, with respect to the expense of establishing these latter courts, it will not be a fiftieth part as much as the proposed institution, and its advantage and convenience will be a thousand times as great. The whole bill turns upon striking out this clause. If it is done, I intend to move one for the establishment of Courts of Admiralty, with some regulations respecting appeals.

Mr. SMITH, (of South Carolina).—As much will depend on the determination of this question, it is necessary it should be well considered by all the committee. It will not be easy to alter the system when once established. The judges are to hold their commissions during good behavior, and after they are appointed, they are only removable by impeachment; consequently this system must be a permanent one. The committee will not, therefore, determine that there shall be district courts until they have reflected seriously on the consequences attending their vote.

After this point is settled, the next which occurs is the extent of jurisdiction to be annexed to this court. This question is as important as the former; for it will be no less difficult than improper to enlarge or curtail the jurisdiction of a court already established.

With respect to the first point, it seems generally conceded that there ought to be a district court of some sort. The constitution, indeed, recognises such a court, because it speaks of "such inferior courts as the Congress shall establish;" and because it gives to the Supreme Court only appellate jurisdiction in most cases of a federal nature. But some gentlemen are of opinion that the district court should be altogether confined to admiralty causes; while others deem it expedient that it should be entrusted with a more enlarged jurisdiction; and should, in addition to admiralty causes, take cognizance of all causes of seizure on land, all breaches of impost laws, of offences committed on the high seas, and causes in which foreigners or citizens of other States are parties. The committee are now to decide between these two opinions. After mature reflection, I am inclined to favor the latter. What are the objections advanced against it? A gentleman from New Hampshire has observed, that such an establishment will be unnecessary, expensive, and disagreeable to our constituents. Justice, he observed, could be as well administered in the State as in the district courts; and should the State courts betray any symptoms of partiality, their adjudications would be subject to revision in the federal Supreme Court, which, in his opinion, afforded sufficient security. If the State courts are to take cognizance of those causes which, by the

constitution, are declared to belong to the judicial courts of the United States, an appeal must lie in every case to the latter, otherwise the judicial authority of the Union might be altogether eluded. To deny such an appeal, would be to frustrate the most important objects of the Federal Government, and would obstruct its operations. The necessity of uniformity in the decision of the federal courts is obvious; to assimilate the principles of national decisions, and collect them, as it were, into one focus, appeals from all the State courts to the Supreme Court would be indispensable. It is, however, much to be apprehended that this constant control of the Supreme Federal Court over the adjudication of the State courts, would dissatisfy the people, and weaken the importance and authority of the State judges. Nay, more, it would lessen their respectability in the eyes of the people, even in causes which properly appertain to the State jurisdictions; because the people, being accustomed to see their decrees overhauled and annulled by a superior tribunal, would soon learn to form an irreverent opinion of their importance and abilities. It appears, therefore, expedient to separate, as much as possible, the State from the federal jurisdiction, to draw a broad line of distinction, to assign clearly to each its precise limits, and to prevent a clashing or interference between them. The expense is suggested as an objection to this system. It is admitted by the gentleman who makes it, that it is proper to have District Courts of Admiralty. These courts must, of necessity, have jurisdiction of offences committed on the high seas. Now the establishment of such a court will induce nearly all the expense that will be requisite; the extension of the system to the length I have stated will occasion a very trifling increase of the expense; and if, after due consideration, it should be found that the latter plan would be more conducive to the happiness and welfare of our constituents than the other, a small increase of the expense ought to be no impediment to the attainment of so valuable an object.

There can be no reason why our constituents should be displeased with the arrangement; the district judge will be elected from among the citizens of the State where he is to exercise his functions, and will feel every inducement to promote the happiness and protect the liberties of his fellow-citizens. He will be more independent than the State judges, holding his commission during good behavior, and not influenced by the fear of a diminution of his salary. Trial by jury will be secured in all cases wherein it is provided in the State courts. Should the district judge be under any bias, it is reasonable to suppose it would be rather in favor of his fellow-citizens, than in favor of foreigners, or the United States. By restricting the State courts to few causes of federal jurisdiction, the number of appeals will be diminished, because every cause tried in those

courts will, for the reasons before mentioned, be subject to appeal; whereas the jurisdiction of the district court will be final in many cases. Inasmuch, therefore, as those appeals are grievous to the citizens, which lie from a court within their own State to the Supreme Court at the seat of Government, and at a great distance, they will consequently be benefited by an exemption from them. In the bill, as sent from the Senate, the jurisdiction of the district courts is not so extensive as to occasion any just alarm; it is, in my opinion, rather too confined, and does not embrace objects enough. It would be difficult to take from that court any of its jurisdiction without materially injuring the whole judicial system, except the clause relating to consuls and vice-consuls, which appears to me to be improperly annexed to the district court, and which I shall move to strike out, when we come to that part of the bill. But to what objects do the district courts extend? To admiralty causes and trials for piracy committed on the high seas. Gentlemen have conceded that the district courts shall have jurisdiction of these cases—to offences against the United States.

It is very proper that a court in the United States should try offences committed against the United States. Every nation upon earth punishes by its own courts offences against its own laws. To seizures on land for breaches of the revenue laws, this power will not be censured; it would be *felo de se* to trust the collection of the revenue of the United States to the State judiciatures. The disinclination of the judges to carry the law into effect, their disapprobation of a certain duty, the rules of the court, or other obvious causes, might delay or frustrate the collection of the revenue, and embarrass the National Government. From this view it appears that the district court is not clothed with any authority of which the State courts are stripped, but is barely provided with that authority which arises out of the establishment of a National Government, and which is indispensably necessary for its support. Can the State courts at this moment take cognizance of offences committed on the high seas? If they do, it is under an act of Congress, giving them jurisdiction; and, in such cases, the Judge of the Admiralty is associated with two common law Judges; this tribunal becomes then a federal court for the particular occasion, because it is established by Congress. The State courts have no jurisdiction of causes arising from a national impost law, because no such law heretofore existed. Where, then, is the ground of uneasiness suggested by gentlemen? The foregoing observations must persuade them that their alarms have been premature. But it is said that there must be court-houses, judges, marshals, clerks, constables, jails, and gibbets; that these establishments will occasion a heavy and unnecessary burthen, and have a tendency to create disgust in the people.

August 29, 1789.]

Judiciary.

[H. OF R.]

I readily agree with the gentleman, that there are in every community some individuals who will see, with pain, every new institution in the shape of a constable, jail, or gibbet, and who think that law and courts are an abridgment of their liberty; but I should be very sorry to concur with him that this is a prevailing opinion. I think better of our constituents, and am persuaded they are sensible that those institutions are necessary for the protection of their lives and property; and grow out of the very nature of a federal Government. Care, indeed, should be taken to prevent their being grievous and oppressive; but as long as knaves and rogues exist in the world, and monsters under the form of men, preying upon the innocent, so long will courts and all their concomitants be wanted to redress the wrongs of the latter, and repress the depredations of the former. But let me ask the gentleman whether a Court of Admiralty and a court for the trial of offences on the high seas, which he agrees ought to be established, will not require all these institutions, viz. court-houses, clerks, sheriffs, &c.? There can be no doubt of it. The extension of the jurisdiction of the district court, as far as I think it necessary, will not occasion any one article of expense, or any one institution that will not be necessary on the gentleman's plan. To suppose that there will be a clashing of jurisdiction between the State and district courts on all occasions, by having a double set of officers, is to suppose the States will take a pleasure in thwarting the Federal Government; it is a supposition not warranted by our fellow-citizens, who, finding that these establishments were created for their benefit and protection, will rather promote than obstruct them; it is a supposition equally opposed to the power of direct taxation, and to the establishment of State and county courts which exist in the several States, and are productive of no such inconvenience. These several courts will have their limits defined, and will move within their respective orbits without any danger of deviation. Besides, I am not persuaded that there will be a necessity for having separate court-houses and jails; those already provided in the several States will be made use of by the district courts. I remember when the court for the trial of piracy, under the authority of Congress, was held at Charleston, the judges sat in the court-house; the prisoners were confined in the jail, were under the custody of the constable, and were executed by the orders of the sheriff of the district of Charleston. All these were State institutions, and yet the court was a federal court.

There is another important consideration; that is, how far the constitution stands in the way of this motion. It is declared by that instrument that the judicial power of the United States shall be vested in one supreme, and in such inferior courts as Congress shall from time to time establish. Here is no discretion, then, in Congress to vest the judicial power of

the United States in any other tribunal than in the Supreme Court and the inferior courts of the United States. It is further declared that the judicial power of the United States shall extend to all cases of a particular description. How is that power to be administered? Undoubtedly by the tribunals of the United States; if the judicial power of the United States extends to those specified cases, it follows indisputably that the tribunals of the United States must likewise extend to them. What is the object of the motion? To assign the jurisdiction of some of these very cases to the State courts, to judges, who, in many instances, hold their places for a limited period; whereas, the constitution, for the greater security of the citizen, and to insure the independence of the federal judges, has expressly declared that they shall hold their commissions during good behavior. To judges who are exposed every year to a diminution of salary by the State Legislatures; whereas, the constitution, to remove from the federal judges all dependence on the Legislative or Executive, has protected them from any diminution of their compensation. Whether the expediency or the unconstitutionality of the motion be considered, there are more than sufficient reasons to oppose it. The district court is necessary, if we intend to adhere to the constitution, and to carry the Government into effect. At the same time, I shall cheerfully assist in organizing this court in that mode, which will prevent its being grievous or oppressive, and will render it conducive to the protection and happiness of our constituents.

Mr. JACKSON said he conceived this to be the most important business that had as yet come before the House. It was what he had long considered, and had with difficulty decided, but upon mature consideration was impressed with the same sentiments as the gentleman from New Hampshire. It must be admitted that a society was formed before the rules that governed that society; and consequently the laws and rules were formed merely for the use of that society. In fact, the convenience of the people is, or ought to be, the first principle of every Government; and the people are entitled to expect it. Our present constitution has set out with this declaration, "We the people," in its preamble, and therefore, in the system before us, every attention of the Legislature ought to be drawn to this point. He apprehended, he said, that the system before them was not framed or calculated for that purpose, but appeared to be rather intended to destroy some of the most valuable and important privileges of the citizens. He did not wish to diminish the powers in the Federal Judiciary, which might be thought necessary, and commensurate to the carrying the Government fully into execution; but he considered the system as unnecessary, vexatious, and expensive, and calculated to destroy the harmony and confidence of the people.

H. OF R.]

Judiciary.

[August 29, 1789.]

The motion has been objected to by the gentleman from South Carolina, for striking out the clause, for several reasons; the first I shall notice is, "that in several of the States the judges are limited in their appointments; that inferior jurisdictions are required by the constitution; and that the State judges are not vested with permanent salaries." Those arguments, he observed, fell to the ground on referring to the constitution; the constitution, he said, did not absolutely require inferior jurisdictions; it says that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish." The word "may" is not positive, and it remains with Congress to determine what inferior jurisdictions may be necessary, and what they will ordain and establish; for if they choose or think that no inferior jurisdictions are necessary, there is no obligation to establish them. It then remains with the Legislature of the Union to examine the necessity or expediency of those courts only. On the subject of expediency, he said, for his part, he could not see it, and was of opinion that the State courts would answer every judiciary purpose.

The gentleman from South Carolina has again advanced "that if district and circuit courts are not adopted, the harmony of the States and of the people will be at stake, and that the system will be more vexatious by a series of appeals." He did not agree with that doctrine. He was persuaded that the harmony of the people, their liberties and properties, would be more secure under the legal paths of their ancestors; under their modes of trial, and known methods of decision. They have hitherto been accustomed to receive justice at their own doors in a simple form. The system before the House has a round of courts appellate from one to the other; and the poor man that is engaged with a rich opponent will be harassed in the most cruel manner; and although the sum be limited for appeals, yet the poor individual may have a legal right to a sum superior to that limitation, (say above a certain amount of dollars,) and not possess fortune sufficient to carry on his lawsuit; he must sink under the oppression of his richer neighbor. He was clearly of opinion that the people would much rather have but one appeal, which, he conceived, would answer every purpose; he meant from the State courts immediately to the Supreme Court of the continent. An Admiralty court of jurisdiction he would grant might be necessary for the trial of maritime affairs, and matters relative to the revenue; to which object he would cheerfully enlarge it; and thought for the present it would be far more eligible. The gentleman has likewise advanced that the expense would be as great without as with the inferior jurisdiction. He would beg leave to differ from him, and declared that it would be in the proportion of three to one; for although the clerk and marshal of the district courts are the offi-

cers proposed for the circuit courts, yet there would arise a train of inferior officers, consequently attendant on those officers and courts, exclusive of jurors, witnesses, &c. He has likewise advanced, that it would be necessary to prevent confusion; the line of distinction would be much easier preserved in the present state of the department, for many of the reasons pointed out by the gentleman from New Hampshire, exclusive of the difficulty of making new rules. But we are told, he said, it is necessary that every Government should have the power of executing its own laws. This argument would likewise fail, when we find that the constitution, treaties, and laws of the United States are, by the constitution itself, made the supreme laws of the land. Are not the judges of the different States bound by oath to support that supreme law? Will they not recollect those oaths, and be liable to punishment by your act, which has obliged them to take that oath, if they do not respect it as such? Assuredly they will; it is part of the compact formed with the States. But does there not remain the appellate jurisdiction of the Supreme Court to control them, and bring them to their reason? Can they not reverse or confirm the State decrees, as they may find them right or wrong? Consequently, this last argument falls to the ground.

That the system is vexatious can be easily proved, and is too obvious. An offender is dragged from his house, friends and connexions, to a distant spot, where he is deprived of every advantage of former character, of relations and acquaintance; the right of trial by a jury of the vicinage is done away, and perhaps he is carried to a place where popular clamor might for the moment decide against him; or, if allowed a trial by vicinage, or his neighbors, it is equally vexatious to drag him two or three hundred miles from his home, with evidences to try and give testimony at a distant place; every thing is to be dreaded from it. This, he observed, was contrary to our wonted customs, and we need but revert to the history of Britain, after the conquest, to view what struggles that nation made against innovations of this nature. The monkish clergy joined with the kings to oppress the people, to establish civil law, and get the legal power into their own hands; the people took the alarm, and with the nobility contested the point, which was never finally settled until the great charter of John, which it was one of the causes of producing, and that fixed the ecclesiastical bounds. He would ask if our modes of trial must not be as dear to our fellow-citizens as theirs were to them, and if the same commotions may not be reasonably expected? He feared they would be found so. Is it proper we should be so suspicious of the State judges? He could not, he said, for his part, consider human nature so depraved, as to suppose that, with an oath to observe the supreme law of the land, the State judges would not obey it. In his opinion, it became us, as a

AUGUST 29, 1789.]

Judiciary.

[H. of R.]

wise Legislature, to take up and execute the least exceptionable and milder mode first. There was no requisition, no necessity from the constitution. If, on experiment, it should be found (and the House generally admits our laws are at present experimental) that sufficient attention is not paid, and that our Government requires for its existence a more energetic mode, he pledged himself to agree to any inferior jurisdictions that may be thought necessary for that purpose; but he never could consent to oppress his fellow-citizens without being taught by absolute necessity arising from experience.

Mr. BENSON said, if the House decided in favor of the present question, it would involve a total abandonment of the judicial power, excepting those cases the honorable gentlemen mean to provide for, namely, the Courts of Admiralty and Supreme Courts. The honorable gentleman had observed that difficulties would arise out of the proposed establishment; but these difficulties or embarrassments are not to be charged to the House, they grow out of the constitution itself. The gentlemen suppose that two sovereign and independent authorities can never be exercised over the same territory; but this is not the business of the committee; they could not get rid of these difficulties by retrenching their powers; they must carry the constitution into effect. The gentleman has stated a case, in supposing that process shall issue from the State and continental courts, and both be served upon the defendant at the same time, and then asks what is to be done. Is the man to be divided? Now, in return, he would ask the same question; is the United States to abandon all its powers and jurisdiction, because the exercise of it may be attended with some inconvenience? As well might we ask individual States to abandon theirs, because there is some clashing with the Federal Judiciary. He apprehended that neither were to be abandoned, but that they should endeavor to administer both with as little inconvenience to either as was practicable.

It is not left to the election of the Legislature of the United States whether we adopt or not a judicial system like the one before us; the words in the constitution are plain and full, and must be carried into operation. He would not undertake to say that it was the best system that could be formed; but it had its advantages over some in which the honorable gentleman from New Hampshire (Mr. LIVERMORE) had said that justice was well administered; he thought there was more reliance on judges who were appointed during good behavior, than on others appointed from session to session, and ever dependent on the will of the State Legislatures.

He left it to experience to show whether the Judiciaries would interfere or not; some gentlemen had predicted they would; it was possible that they might, and he did not know but that the interference would be of such a delicate nature, as to compel the United States to re-

linquish her portion; or, on the other hand, the States individually might consent that the judicial power should be solely exercised by the Union. But all this was wide of the question; the House had nothing more to do than to perform their duty, and carry the constitution into full operation.

Mr. SEDGWICK said, the gentleman would find as many difficulties growing out of the substitute as those he apprehended from the plan on the table. He had asked what will be done with the prisoners if they are taken at the same time in consequence of processes from the national and State courts? I answer by asking him, what will be done with the prisoners if they are taken at the same time by a process from the Admiralty and State courts? The other difficulties he had apprehended were well replied to by the honorable gentleman from South Carolina; and I shall only remark, that we are so circumstanced that two distinct independent powers of judicial proceedings must exist; at least I do not see how we shall get rid of the difficulty, if it is one, until there shall be a change in the constitution.

I did not suppose it was a question at this day, whether this Government is to exercise all the powers of a Government or not. I did conceive, sir, that such an idea could exist in the mind of any gentleman; yet what is the object of the present motion? Sir, it goes to divest the Government of one of its most essential branches; if this is destroyed, your constitution is but the shadow of a Government.

Is it not essential that a Government possess within itself the power necessary to carry its laws into execution? But the honorable gentleman proposes to leave this business to a foreign authority, totally independent of this Legislature, whether our ordinances shall have efficacy or not. Would this be prudent, even if it were in our power? Suppose a State Government was inimical to the Federal Government, and its judges were attached to the same local policy, they might refuse or neglect to attend to the national business; they might be corrupt, and in either case the public might sustain an essential injury. And where would be your redress? Shall we apply to the State Legislatures that patronize them? Can we impeach or have them tried? If we can, how is the trial to be had; before a tribunal established by the State? Can we expect in this way to bring them to justice? Surely no gentleman supposes we can. These are not chimerical suppositions; they are founded in nature, and such as may be expected; indeed, facts have already occurred to prove to us how dangerous it would be to make the State Legislatures the sole guardians of the national faith and honor. Already have the United States been hurled down by those arms from a pinnacle of glory to the lowest state of degradation. The United States, after a glorious and successful struggle, in which they displayed a valor and patriotism astonishing the old

H. OF R.]

Judiciary.

[August 29, 1789.]

world, secured their independence! and a single concession was the price of an honorable peace. The discharge of *bona fide* debts due from the citizens of America to the subjects of Britain was all that Britain required. Now, is it not obvious to every man, that this honorable stipulation ought by all means to be considered the supreme law of the land? Yet, what was the event? State after State, Legislature after Legislature, made laws and regulations in positive opposition to the treaty; and the State Judiciaries could not, or did not, decide contrary to their State ordinances. What have been the consequences of these proceedings? It ill becomes me at this time, when we hope to wipe off every ignominious stain, to recapitulate the evils it has drawn down upon the nation. But I hope they are sufficiently notorious to put us on our guard against trusting essential powers out of our hands, contrary to our duty, and contrary to the wishes of the people.

When we are certain that the Government cannot be organized without establishing its judicial tribunals; when we fear for its existence, (at least its existing with reputation and dignity), unless we provide for the due execution of national laws and national treaties; shall we forego them because gentlemen apprehend some small difficulties from interfering process? Sir, it has been already demonstrated that the interference will be trifling, if any; it will be too small to authorize us to blast the expected benefits arising from a complete and efficient system of government.

Mr. AMES said, the remarks made by gentlemen on the importance of this question would be of some utility in deciding it. The judicial power is, in fact, highly important to the Government and to the people; to the Government, because by this means its laws are peaceably carried into execution. We know, by experience, what a wretched system that is which is divested of this power. We see the difference between a treaty which independent nations make, and which cannot be enforced without war, and a law which is the will of the society. A refractory individual is made to feel the weight of the whole community. A Government that may make but cannot enforce laws, cannot last long, nor do much good. By the power, too, the people are gainers. The administration of justice is the very performance of the social bargain on the part of Government. It is the reward of their toils; the equivalent for what they grant. They have to plant, to water, to manure the tree, and this is the fruit of it. The argument, therefore, *a priori*, is strong against the motion; for, while it weakens the Government, it defrauds the people. We live in a time of innovation; but until miracles shall become more common than ordinary events, and surprise us less than the usual course of nature, he should think it a wonderful felicity of invention to propose the expedient of hiring out our judicial power, and employing courts not amenable to our laws, instead of instituting them ourselves as the

constitution requires. We might with as great propriety negotiate and assign over our legislative as our judicial power; and it would not be more strange to get the laws made for this body, than after their passage to get them interpreted and executed by those whom we do not appoint, and cannot control. The field of debate is wide; the time for consideration had been so ample, and that remaining for debate so short, that he would not enter fully into it. The gentleman from South Carolina (Mr. SMITH) had very ably proved the expediency of the motion. He would confine himself, he said, to another point; and if it could be established, it would narrow the discussion.

The branches of the judicial power of the United States are the admiralty jurisdiction, the criminal jurisdiction, cognizance of certain common law cases, and of such as may be given by the statutes of Congress. The constitution, and the laws made in pursuance of it, are the supreme laws of the land. They prescribe a rule of action for individuals. If it is disputed whether an act done is right or wrong, reference must be had to this rule; and whether the action is compared with the rule of action in a State or Federal court, it is equally out of the power of the judges, to say that right is wrong, or that wrong is right. If a man is restrained of his liberty, and for that sues the officer of the General Government in a State court, the defendant shows that he was a marshal, and served a precept according to the law of the United States; then he must be cleared, otherwise the law of the United States would not be the law of the land. But there is a substantial difference between the jurisdiction of the courts and the rules of decision.

In the latter case the court has only to inquire into facts and the rules of action prescribed to individuals. In the former they do not inquire how, but what they may try. The jurisdiction of the court is the depositum of a truth. The supreme power in a State is the fountain of justice. Such streams are derived from this fountain to the courts as the Legislature may positively enact. The judges, as servants to the public, can do that only for which they are employed. The constitution had provided how this trust should be designated. The judges must be named by their Christian and surnames, commissioned during good behavior, and have salaries. Causes of exclusive federal cognizance cannot be tried otherwise, nor can the judicial power of the United States be otherwise exercised. The State courts were not supposed to be deprived by the constitution of the jurisdiction that they exercised before, over many causes that may be tried now in the national courts. The suitors would have their choice of courts. But who shall try a crime against a law of the United States, or a new created action? Here jurisdiction is made *de novo*. A trust is to be exercised, and this can be done only by persons appointed as judges in the manner before mentioned. The will of the

AUGUST 29, 1789.]

Judiciary.

H. OF R.

society is expressed and is disobeyed; and who shall interpret and enforce that will but the persons invested with authority from the same society? The State judges are to judge according to the law of the State, and the common law. The law of the United States is a rule to them, but no authority for them. It controlled their decisions, but could not enlarge their powers. Suppose an action was brought on a statute, declaring a forfeiture equal to the whole of the goods against him whoever shall unlade without a permit; before the law was made, no court had jurisdiction. Could a State court sustain such an action? They might as properly assume admiralty jurisdiction, or sustain actions for forfeitures of the British revenue acts. He did not mean any disrespect to the State courts. In some of the States, he knew the judges were highly worthy of trust; that they were safeguards to Government, and ornaments to human nature. But whence should they get the power of trying the supposed action? The States under whom they act, and to whom they are amenable, never had such power to give, and this Government never gave them any. Individuals may be commanded, but are we authorized to require the servants of the States to serve us? It was not only true, he said, that they could not decide this cause, if a provision was neglected to be made, by creating proper tribunals for the decision, but they would not be authorized to do it, even if an act was passed declaring that they should be vested with power; for they must be individually commissioned and salaried to have it constitutionally, and then they would not have it as the State judges. If we may empower one State court, suppose the Supreme Court, we may empower all or any, even the justices of the peace. This will appear more monstrous if we consider the trial of crimes. A statute creates an offence. Shall any justice of the peace be directed to summon a jury to try for treason or piracy? It was true the Government would not direct a thing so wickedly absurd to be done; but who will believe Government may lawfully do it? It would be tedious to pursue this, or even the ideas connected with it, very far. The nature of the subject rendered it difficult to be even perspicuous without being prolix. His wish was to establish this conclusion, that offences against statutes of the United States, and actions, the cognizance whereof is created *de novo*, are exclusively of federal jurisdiction; that no persons should act as judges to try them, except such as may be commissioned agreeably to the constitution; that for the trial of such offences and causes, tribunals must be created. These, with the admiralty jurisdiction, which it is agreed must be provided for, constitute the principal powers of the districts courts. If judges must be paid, they might as well be employed. The remnants of jurisdiction, which may be taken away, are scarcely worth transferring to the State courts, and may as well be exercised by our own.

The question being now called for from several parts of the House,

Mr. STONE said, he hoped the question would not be determined on the discussion it already had. He thought, although gentlemen might have made up their minds on the subject, a very full communication of the principles upon which they acted in this momentous business ought to take place before the question was decided; for to him it appeared of the greatest importance that they should act rightly, and it should be known they acted on right principles. It is admitted, said he, on all hands, to be a work of extreme difficulty; one gentleman has said that it is so difficult, we cannot correct it. But surely we ought to exercise a little patience in the examination; perhaps, on a minute inquiry, we may hear of some road by which we may avoid these difficulties, and amply recompense ourselves, our constituents, and our posterity, for the expense of our time. I confess, for my own part, I wish more information than I have yet received, in order to reconcile me to the bill. I was so unfortunate on a former and memorable occasion as to differ from the majority of this House; perhaps this question may turn upon a similar principle, and renew that pain which it gives me to oppose what I find to be the voice of my country. I therefore most earnestly wish to be convinced that my ideas are founded on misconception, in order to go with the majority; but if I should be left in the minority, whether from not having my difficulties removed, or because they are insuperable, I shall ever cheerfully submit to the judgment of the House; and on this occasion I am ready to assent to every power necessary to the due administration of the Government. But I declare, in my mind, this is a system founded on principles distinct and separate from the general principles upon which the constitution was framed. It appears to me that the present Government originated in *necessity*, and it ought not to be carried farther than *necessity* will justify.

I believe the scheme of the present Government was considered by those who framed it as dangerous to the liberties of America; if they had not considered it in this point of view, they would not have guarded it in the manner they have done. They supposed that it had a natural tendency to destroy the State Governments; or, on the other hand, they supposed that the State Governments had a tendency to abridge the powers of the General Government; therefore it was necessary to guard against either taking place, and this was to be done properly by establishing a Judiciary for the United States. This Judiciary was likewise absolutely necessary, because a great many purposes of the Union could not be accomplished by the States, from the principle of their government, and could not be executed from a defect in their power. But all these, I presume, are involved in the jurisdiction of the Supreme Federal Court. I apprehend in every thing else the State courts might have had complete and adequate jurisdiction; the

State courts could not determine between State and State, because their judgment would be ineffectual; they could never carry it into execution. But I apprehend in all other cases the States could execute that authority which is reposed in the United States. Yet I do not doubt but the caution might be necessary for securing to the General Government, in reserve, those very powers, because such abuses may happen in the State courts, as to render it necessary for the due administration of justice, that the national jurisdiction be carried over such States. But what I am not satisfied of is, whether it is *now* essential that we proceed to make such establishments. I cannot conceive it to be *now* essential; because the business may be done without, and it is not commanded by the constitution; if it is commanded by the constitution, we have no power to restrain or modify it. If it is the right of an alien or foreigner to sue or be sued only in the courts of the United States, then they have a right to that jurisdiction complete, and then Congress must institute courts for taking exclusive cognizance of all cases pointed out in the constitution; but this would be contrary to the principle of the bill, which proposes to establish the inferior courts with concurrent jurisdiction with the State courts.

By the constitution, Congress has a right to establish such inferior courts as they from time to time shall think necessary. If I understand the force of the words "from time to time," it is that Congress may establish such courts when they think proper. I take it they have used another precaution; and this construction is guarded by another clause in the constitution, where it is provided that the constitution itself, and all laws made in pursuance thereof, as well as treaties, shall be the supreme law of the land, and the judges in every State are to be bound thereby; any thing in the State laws or constitutions to the contrary notwithstanding. Now can gentlemen be afraid that the State courts will not decide according to the supreme law? If they are, it is in the discretion of Congress to refuse them the opportunity; but the bill gives them a concurrent jurisdiction, and shows that these dangers are not really apprehended; if they give them concurrent jurisdiction, they have the power of giving them complete; and they may delay from time to time the institution of national courts, until they suppose or have experienced the inadequacy of the State courts to the objects granted by the constitution to the participation of the Judiciary of the United States. If, sir, the State judges are bound to take cognizance of the laws of the United States, and are sworn to support the General Government, the system before us must have originated from a source different from that from which the Government itself derived its existence. Yet, I admit, sir, that there is a *necessity* for instituting Admiralty courts, though it is not because I consider the power of the State inadequate to that object; but

because those courts are not instituted in all of them, and it is proper that there should be a maritime jurisdiction within the bounds of every State to determine cases arising within the same. It depends not upon the principle, but on the fact, that I admit it to be *necessary* for Congress to organize an admiralty system; for I take it, that were admiralty courts established in the different States, and were you to make laws that affected admiralty cases, they would be as much obliged to determine by your laws as if you had instituted the courts yourselves. If, then, the State courts have the power, your system is not necessary, unless they will not execute that power; it must therefore depend on your suspicion of their want of judgment or integrity. I declare I can contemplate a time, with great pain, when one of those cases may happen; but I believe the time is not yet arrived, and we ought not to adopt a system which presupposes it.

I know it is of great importance to have the decisions of the courts conformable; and I believe also it is of no inconsiderable importance to the Government, to have it operate as well on individuals as on States. It would be, if liked by the people, one of the strongest chains by which the Union is bound; one of the strongest cements for making this constitution firm and compact. But I would not have the measure adopted at a time, and on a principle, which must have a direct contrary tendency. If we establish federal courts, on the principle that the State courts are not able or willing to do their duty, we establish rivals. But if we honestly conduct upon the principle of the constitution—*necessity*, we may expect some good to result from the exercise of our powers, and prevent any clashing of jurisdiction; but to act on other principles must introduce confusion. Every body knows with what phlegmatic and cool determination, with what disregard of surrounding objects, courts maintain their separate jurisdictions. If we search the history of courts with which we are well acquainted, we shall find, that though they did not absolutely proceed to bloodshed, yet they put the whole community in commotion with the clashing of their jurisdictions; yet in that country the citizen and the community have a remedy. I fancy it is not so in this; I believe, instead of being found what the gentleman from South Carolina has termed them, planets rolling in their orbits, on the immutable principles of order, so as not to interfere with each other, they will be felt in concussion, and their violence will violate the harmony with which gentlemen please their imagination. The clew of separate jurisdiction will twine into such a state of perplexity, as to render it impossible for human wisdom to disentangle it without injury.

The gentlemen have mentioned jails and different processes; they might have traced it down to an execution, and shown us what might have been the consequence. Suppose an alien has a right to a man's property, and a citizen

AUGUST 29, 1789.]

Judiciary.

[H. OF R.]

the same, they lay their executions at the same time, the jurisdictions do not know each other, they take no cognizance of each other's proceedings, the land is taken by the State court, and the possessor turned out; if it is taken by the officer of the Continental court, the possessor is turned out also, and an action is brought to determine again who has a right to the property; the State court says the citizen, and the Continental court the alien: What is to be done? Here is no tribunal to determine between them; it can only be determined by the sword. Gentlemen ought to examine this part of the subject more fully before they decide it.

Mr. BURKE declared it to be a singular innovation on the privileges of the citizens, and such as they would never submit to; for they never had an idea that by this revolution they were to be put in a worse situation than they were in under the former Government. He said when their State districts courts would be sitting, the Federal courts would be engaged at the same time, and he asked whether the people could ever consider such an accumulation of courts of justice calculated to promote their interest; it would harass them with extreme duty, as witnesses, jurors, &c. and leave them at the mercy of the Judges as to fines, when they should be engaged at another court. With respect to the time of the court sitting, it might be made at a most inconvenient time of the year, and the place might be at the most distant part of the State, where a man might be dragged three or four hundred miles from his home, and tried by men who know nothing of him, or he of them; he was sure, under such circumstances, the freemen of America could never submit to it.

Mr. MADISON said, that all these points might be secured in the bill, when they came to the part that related thereto.

Mr. LAWRENCE expressed himself against the motion for striking out, because he conceived that it was essential to carry this part of the constitution into effect, and that the courts had better be established now than hereafter.

Mr. MADISON said, it would not be doubted that some Judiciary system was necessary to accomplish the objects of the Government, and that it ought to be commensurate with the other branches of the Government. Under the late confederation, it could scarcely be said, that there was any real Legislative power, there was no Executive branch, and the Judicial was so confined as to be of little consequence; in the new constitution a regular system is provided; the Legislative power is made effective for its objects; the Executive is co-extensive with the Legislative, and it is equally proper that this should be the case with the Judiciary. If the latter be concurrent with the State jurisdictions, it does not follow that it will for that reason be impracticable. It is admitted, that a concurrence exists in some cases between the Legislative authorities of the Federal and State Governments; and it may be safely affirmed that there

is more, both of novelty and difficulty in that arrangement, than there will be in the other.

To make the State courts federal courts, is liable to insuperable objections, not to repeat that the moment that is done, they will, from the highest down to the county courts, hold their tenures during good behavior, by virtue of the constitution. It may be remarked, that, in another point of view, it would violate the constitution by usurping a prerogative of the Supreme Executive of the United States. It would be making appointments which are expressly vested in that department, not indeed by *nomination*, but by *description*, which would amount to the same thing. But laying these difficulties aside, a review of the constitution of the courts in many States will satisfy us that they cannot be trusted with the execution of the Federal laws. In some of the States it is true they might, and would be safe and proper organs of such a jurisdiction; but in others they are so dependent on State Legislatures, that to make the Federal laws dependent on them, would throw us back into all the embarrassments which characterized our former situation. In Connecticut the Judges are appointed annually by the Legislature, and the Legislature is itself the last resort in civil cases.

In Rhode-Island, which we hope soon to see united with the other States, the case is at least as bad. In Georgia, even under their former constitution, the Judges are triennially appointed, and in a manner by no means unexceptionable. In Pennsylvania they hold their places for seven years only. Their tenures leave a dependence, particularly for the last year or two of the term, which forbid a reliance on Judges who feel it. With respect to their salaries, there are few States, if any, in which the Judges stand on independent ground. On the whole, he said, he did not see how it could be made compatible with the constitution, or safe to the Federal interests, to make a transfer of the Federal jurisdiction to the State courts, as contended for by the gentlemen who oppose the clause in question.

Mr. BURKE said, he had turned himself about to find some way to extricate himself from this measure; but which ever way he turned, the constitution still stared him in the face, and he confessed he saw no way to avoid the evil. He made this candid confession, to let them know why he should be a silent spectator of the progress of the bill; and he had not the most distant hope that the opposition would succeed. If any substitute could be devised that was not contrary to the constitution, it should have his support, but he absolutely despaired of finding any. He was, however, satisfied that the people would feel its inconvenience, and express their dislike to a Judicial system which rendered them insecure in their liberties and property; a system that must be regarded with jealousy and distrust.

Mr. JACKSON.—Sir, the importance of the question induces me to trouble the committee so far as to answer one of the arguments made

H. OF R.]

Judiciary.

[AUGUST 29, 1789.]

use of in the opposition, and which I think necessary to do away the impressions they have made, should be answered. The gentleman from Massachusetts (Mr. SEDGWICK) has carried the nation to the highest pinnacle of glory, and in a moment hurled it down to the lowest pitch; and has laid the loss of national faith, credit, and honor to the want of an energetic Judiciary. Every good citizen will, with him, deplore the abject state we have been brought to; but, sir, does this argument hold good here? I am of opinion it is evident it does not. Under the old form of Government, Congress had no compelling Judiciary; no power of reversing the decrees of the State Judges; but it is contended that they have, or ought to have more under the present system. It is allowed, sir, that Congress shall have the power, in its fullest extent, to correct, reverse, or affirm, any decree of a State court; and assuredly the Supreme Court will exercise this power. How then can our national faith or honor be injured by striking out the clause in future? It must be obvious to the gentleman himself, that his fears are groundless; for the Supreme Court will interfere and keep the State Judiciaries within their bounds: That authority will tell them, thus far ye shall go, and no further: and will bring them back when they exceed their bounds, to the principles of their institution.

Another gentleman from Massachusetts (Mr. AMES) has advanced a position I cannot agree with. He has said, that the State courts will not, nor cannot, take cognizance of laws of the Union, as it would be taking up matters out of the bounds of their jurisdiction, and interfering with what was not left to them. Sir, I answer that gentleman with the words of the constitution, "This constitution, and the laws of the United States made in pursuance thereof, and all treaties, &c. shall be the supreme law of the land." This surpasses in power any State laws; the Judges are bound to notice them as the supreme law, and I call upon the gentleman to know, as a professional man, if a criminal was tried for a capital offence under a State law, and could justify himself under the laws of the Union, if the State Judges could condemn him? Sir, they would forfeit their oaths if he was not acquitted; this, however, he has admitted in his argument in some measure. If there was no jurisdiction, neither could they notice the law. I acknowledge that the gentleman has used many specious arguments, but as they rest chiefly on this ground, I think they are done away.

The gentleman from Virginia (Mr. MADISON) has advanced, that, by leaving this power in the hands of the State Judiciaries, or by joining their concurrent authority, you establish them as inferior jurisdictions. If the gentleman will turn to the eleventh and twenty-fifth sections, he will find those positions established, and what fell from the gentleman from Massachusetts concerning jurisdiction is likewise answered. The State courts, by the former, are acknowledged to have concurrent

jurisdiction in a large extent, where the United States and an alien are the party, or between citizens of one State and those of another. And if the jurisdiction is acknowledged in some points, it must be supposed to be so in the fullest extent. By the twenty-fifth, sir, they are again fully established; and therefore they are now, by the present system, in every light as fully, agreeably to the gentleman's argument, inferior jurisdictions, as they possibly could be by the principles of the gentleman from New Hampshire. And here, sir, I will advert to the general arguments, used by the gentlemen in opposition, of the necessity of power to enforce the laws of the Union, and support the national existence and honor. Sir, I am opposed in some degree to this clause. For the extent of its power, even supposing the District and Circuit courts abolished, swallows up every shadow of a State Judiciary. Gentlemen, therefore, have no reason to complain of the want of Federal Judiciary power, for the clause declares, "That a final judgment or decree in any suit, in the highest court of law or equity of a State in which the decision of the suit could be had, where the validity of a treaty is drawn in question, or statute thereof, or an authority exercised under the United States; and the decision is against their validity; or where is drawn in question the validity of a statute, or an authority exercised under any State on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty or statute, or of a commission, held under the United States, and the decision is against the title, right, privilege or exemption specially set up, or claimed by either party under such clause, of the said constitution, treaty, statute, or commission, may be re-examined and reversed, or affirmed in the Supreme Court of the United States." Sir, in my opinion, and I am convinced experience will prove it, that there will not, neither can there be any suit or action brought in any of the State courts, but may, under this clause, be reversed or affirmed by being brought within the cognizance of the Supreme Court. But should there be some exceptions for the present, yet sir, the precedent is so forcible, for it goes so far as even to admit of constructions on some of the articles, that by some means or other those articles will in time be totally lost. Sir, let us look at the Court of Exchequer in England; revenue trials at first engrossed its whole attention; from a series of fiction there is now no personal action but from construction may be brought within their cognizance. It is only a suggestion, and very seldom true, that a plaintiff is a king's debtor, and that the action is well grounded: yet there they have counter checks, and another resort; here the Supreme Court is final. Sir, the gentleman from South Carolina (Mr. RUNKE) was right in declaring

AUGUST 29, 1789.]

Judiciary.

[H. OF R.]

a resident on Lake Erie might be dragged to New York for trial, or one on the Oconee to Savannah. Nay, sir, I know not how far in time a man might not be dragged; perhaps from the Oconee to be tried in North Carolina; for one part of the bill, without specifying the spot, declares, that the Circuit courts shall have power to hold special sessions for the trial of criminal causes at their discretion. On these considerations, I hope the House will not adopt the present system, until the milder one is tried. It is calculated to foment and harass the people, without answering any essential purpose.

Mr. SHERMAN said, it was admitted, on all hands, that a Judiciary system was necessary, even upon condition that the Legislature had a discretion in the business; and it required but little attention to discover that the plan proposed by the Senate was better than what gentlemen proposed to substitute, inasmuch as it was more complete, and not more expensive. There would be a uniformity of decision under the former; while the latter would render the construction of the law vague, if not various. It would less disturb the harmony of the States; and of consequence be more agreeable to the people. He hoped the committee would reject the motion for striking out the clause.

Mr. SMITH, of South Carolina, observed, that all the difficulties and inconveniences which the gentlemen have started as arising from the establishment of a District court arise from the Government itself. All the objections made to this court apply equally against having any National Judiciary. Indeed if they had any weight, they would as forcibly apply to the very institution which the gentlemen patronize, viz: a court of admiralty and piracy. If there is to be this perpetual clashing of jurisdictions between the Federal and State courts, this eternal jarring between their respective officers, will not these embarrassments exist under any Judicial system that the ingenuity of man can devise? Will they not take place under the establishment proposed by the other side? And will the mere alteration of the court from a district, to a court of admiralty and piracy, remedy this evil? But these objections come too late, a National Government is established. The Judicial power is a component part of this Government, and must be commensurate to it. If we have a Government pervading the Union, we must have a Judicial power of similar magnitude; we must establish courts in different parts of the Union. The only question is, which is the plan best calculated to answer the great object we all have in view, the carrying the Judicial powers into operation with the least inconvenience to the citizens. This double system of jurisprudence is unavoidable; it is as much a part of the constitution as the double system of Legislation; each State has a Legislative power, both operating on the same persons, and in many cases on the same objects; it is infinitely more difficult to

mark with precision the limits of the Legislative than the Judicial power; no one, however, disputed the propriety of vesting Congress with a Legislative power over the Union, and yet that power is perhaps more liable to abuse than the Judicial. It has, indeed, been contended, in some of the State conventions, that Congress ought not to be entrusted with direct taxation; and it is remarkable that the same obstacles were urged against that power which is now suggested against this institution. It was then said that Federal and State taxes could not operate at the same time without confusion; it was then facetiously asked, whether the Congressional and State collector, who had seized a horse for the payment of taxes, were to divide him between them; it is now asked, with equal pleasantry, whether the marshal of the district, and the sheriff of the State court, who have taken the same debtor in execution, are to cut him in halves? It was then answered, that if the State collector seized the horse first, he will have the first satisfaction; it was also shown that there are frequently in the same State, state taxes, county taxes, and corporation taxes, and that these never occasioned any clashing or confusion; it may now be answered, that there are at present, in some of the States, state courts, county courts, and corporation courts; and that these are found convenient, and unaccompanied with the clashing so much apprehended. They keep within their particular spheres, and have their limits ascertained. But in answer to one supposition, allow me to state another; suppose a state sheriff and a county sheriff should seize the same debtor, would he be parcelled out between them? Would not the execution that was first served take effect? Is not this the practice at present, and will it not be so under this system? It is very easy for gentlemen, in the warmth of their imaginations, to suppose a variety of cases, and raise a multiplicity of objections against any system of jurisprudence whatever. They will all be more or less liable to some objections on the score of inconvenience, but they are submitted to by good citizens, who are sensible that they are the surest means of protecting their property, reputations, and lives. After all that has been said, it does not appear that we differ so widely as was at first imagined; for the gentlemen who advocate the motion, concede the necessity of some inferior Federal court in each State. What then do gentlemen object to? If it is the name of the court, that may be altered; if it is the frequency of holding them, it will be very easy to amend the clause in that respect; but they move to strike out the clause altogether, when it is granted on all hands that there must be such a court. The objection to the extent of jurisdiction is premature, and ought to be reserved for the clause which ascertains the jurisdiction; if, upon an investigation of that clause, it should appear that it ought to be restricted, that would be the reasonable time for moving to strike out the exceptionable part; but really at present

H. OF R.]

Judiciary.

[AUGUST 29, 1789.]

gentlemen are making objections to one clause which, from their own concessions, apply altogether to another. As to several other observations that relate to the time of holding the courts, and the mode of drawing jurors, it is unnecessary to reply fully to them at present, because it would be improper to run into a discussion of the detail, while the question is on the principle of the system. He was no less opposed to the time of holding the courts, and the mode of drawing jurors, provided by the bill, than the gentleman was from whom the objection came, and would add his endeavors with his to effect an alteration in these points; but this is not the proper time, we are now on the principle, whether there shall be a District court: the same answer will apply to the objection that the juries and witnesses will be unnecessarily harassed; every care will be taken to accommodate these courts to the convenience of the citizens of each State.

Several other difficulties have been urged, as growing out of this plan of jurisdiction; a candid discussion will remove and obviate them. It has been said, that the bill provides a number of appeals from the State to the Supreme Court, through the District and Circuit courts, and that the suitors may be persecuted with appeals carried on from one court to another, through four different courts. An attentive examination of the bill is a sufficient answer to this objection. There is no appeal from the State to the District courts; and only a power of removal in certain cases of a Federal jurisdiction, from the State to the Circuit court; neither is there any appeal of fact from the District to the Circuit court, and only a power of removal in certain cases of a Federal jurisdiction from the State to the Circuit court; neither is there any appeal of fact from the District to the Circuit courts, but in admiralty cases; and these cannot be afterwards carried up to the Supreme Court, but when the value exceeds two thousand dollars.

It has been said, that, under the idea of vicinage, a man may be dragged far from his friends to trial, from Georgia to North Carolina; but it must be remembered that there is a constitutional provision that the criminal shall be tried in the State where the offence is committed, and the bill is conformable to the constitution in this respect. It has been observed that the constitution is no bar to vesting the State courts with Federal powers, for the words, "such inferior courts as Congress shall, from time to time, establish," imply that Congress may not institute them; and if they are not instituted, these powers must of course remain with the State courts. In reply to this argument, it is to be observed, that the words, "such inferior courts," &c. apply to the number and quality of the inferior Federal courts, and not to the possibility of excluding them altogether; it is a latitude of expression empowering Congress to institute such a number of inferior courts, of such particular construc-

tion, and at such particular places, as shall be found expedient; in short, in the words of the constitution. Congress may establish such inferior courts as may appear requisite. But that Congress must establish some inferior courts is beyond a doubt; in the first place, the constitution declares that the Judicial power of the United States shall be vested in a supreme and in inferior courts. The words, "shall be vested," have great energy, they are words of command; they leave no discretion to Congress to parcel out the Judicial powers of the Union to State judicatures, where a discretionary power is left to Congress by the constitution; the word "may" is employed where a discretion is left; the word "shall" is the appropriate term; this distinction is cautiously observed. Again, the Supreme Court, in two cases only, has original jurisdiction; in all others it has appellate jurisdiction; but where is the appeal to come from? Certainly not from the State courts; it must come from a Federal tribunal. There is another argument that appears conclusive; the constitution provides that the Judges of the Supreme and inferior courts, shall hold their commissions during good behavior, and shall receive salaries not capable of diminution; and it further provides, that the Judicial power of the Union shall be vested in a supreme and inferior courts; that is, in supreme and inferior courts, whose Judges shall receive their commissions during good behavior, and possess salaries not liable to diminution.

Does not, then, the constitution, in the plainest and most unequivocal language, preclude us from allotting any part of the Judicial authority of the Union to the State judicature? The bill, it is said, is then unconstitutional, for it recognizes the authority of the Federal court to overturn the decisions of the State courts, when those decisions are repugnant to the laws or constitution of the United States. This is no recognition of any such authority; it is a necessary provision to guard the rights of the Union against the invasion of the States. If a State court should usurp the jurisdiction of Federal causes, and by its adjudications attempt to strip the Federal Government of its constitutional rights, it is necessary that the National tribunal shall possess the power of protecting those rights from such invasion. The committee have been told that this multiplicity of courts, and of appeals, will distress the citizens; and the number of appeals in Great Britain has been alluded to. He had always heard, he said, that there was no country in the world, where justice was better administered than in that country; to its excellent and impartial administration, the property, freedom, and civil rights of its citizens have been attributed. Were appeals too much restrained in this country, he questioned much whether a great clamor would not be raised against such a restriction. The citizens of a free country, when they lose their cause in one court, like to

AUGUST 31, 1789.]

Judiciary.

[H. of R.]

try their chance in another. This is a privilege they consider themselves justly entitled to; and if a litigious man harasses his adversary by vexatious appeals, he is sufficiently punished by having the costs to pay. By limiting appeals to the Supreme Court to sums above one thousand dollars, as is proposed, the poor will be protected from being harassed by appeals to the Supreme Court.

There was one more observation that required an answer; it was said that the juries shall be so drawn as to occasion the smallest inconvenience to the citizens. After having very maturely considered the subject, and attentively examined the bill in all its modifications, and heard all that had been alleged on this occasion, he was perfectly convinced, that whatever defects might be discovered in other parts of the bill, the adoption of this motion would tend to the rejection of every system of national jurisprudence.

Mr. BURKE said, that he was inclined to amend every part of the bill, so as to remove gentlemen's jealousy, provided it could be done consistently with the constitution.

Mr. GERRY was sorry to hear the honorable gentleman from South Carolina (Mr. BURKE) renounce his intention of opposing the system any further; he thought gentlemen ought not to be tired out like a jury.

Mr. BURKE said, he was not tired with the discussion, but was satisfied that the opposition must be unsuccessful.

The committee now rose and reported progress.—Adjourned.

MONDAY, August 31.

The engrossed bill to suspend part of an act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, on goods, wares, and merchandises imported into the United States, was read a third time, and, on motion, ordered to be committed to Messrs. GOODHUE, CARROLL, LEE, and BLAND, with instruction to the said committee to insert a clause or clauses for establishing Bath and Frenchman's Bay, in the State of Massachusetts, ports of delivery for all foreign vessels.

THE JUDICIARY.

The House then went again into a Committee of the whole on the bill for establishing the Judicial courts of the United States; Mr. BOURNOUT in the chair.

The question being still on striking out the third clause.

Mr. LIVERMORE thought this law would entirely change the form of Government of the United States.

Several observations have been made on this clause; it is said to be the axis on which the whole turns; some of the objections he had thrown out have been attempted to be answered; among others, the great expense. By expense he did not mean the salaries of Judges; this would, however, be greater than the whole

expense of the Judiciary throughout the United States; but he referred to the general expenses which must be borne by the people at large for jails, court-houses, &c.; borne without repining, as the people receive compensation in personal security and public justice; but if all these were doubled throughout, it would be justly considered as intolerable. Another burthen, he said, was the rapidity of the course of prosecution in these courts, by which debtors would be obliged very suddenly to pay their debts at a great disadvantage. Something like this occasioned the insurrection in the Commonwealth of Massachusetts. In other States, similar modes of rapidity in the collection of debts have produced conventions. This had been the case to the northward, and, he had been informed, had been the same to the southward.

This new fangled system would eventually swallow up the State courts, as those who were in favor of this rapid mode of receiving debts, would have recourse to them. He then adverted to the clashing circumstances that must arise in the administration of justice, by these independent courts having similar powers. Gentlemen, said he, may be very facetious respecting dividing the body; but these are serious difficulties; the instances mentioned by the gentleman from South Carolina do not apply, the officer here is the same; the same sheriff has the precepts committed to him; and the execution does not clash; the same gaol answers for both.

He did not think that the difficulties had been answered by any of the examples brought for the purpose.

As to the instance of the trial for piracy in the State of South Carolina, that was a particular case, that could not be otherwise provided for; but these so rarely happen, that no precedent could be drawn from them to render it necessary to establish these perpetual courts.

He then referred to the clause, and offered a substitute, and said he thought, upon the whole, that the suggestion thrown out by an honorable gentleman from South Carolina (Mr. BURKE) that there should be no district courts, is better than any substitute.

It may be proper here to refer to the constitution; he then read the clause upon the subject. The Federal court is to have original jurisdiction only in certain specified cases; in all other it is to have only appellate jurisdiction; it is argued from this, that there are to be inferior Federal courts, from which these appeals are to be made. If the constitution had taken from State courts all cognizance of Federal causes, something might be said; but this is not the case. The State courts are allowed jurisdiction in these cases.

It has been objected that bonds taken by the Judges of the Supreme Court cannot be sued in the State courts. He did not see why this could not be done; similar processes have been usual among us in times past, and there has been no difficulty.

Admiralty courts should have cognizance of

all maritime matters, and cases of seizures should also be committed to their decision. He hoped, therefore, that the clause would be disagreed to, or struck out, and that the bill might be rejected, that a short concise system might be adopted.

Mr. VINING said, he conceived that the institution of general and independent tribunals were essential to the fair and impartial administration of the laws of the United States. That the power of making laws, of executing them, and a judicial administration of such laws, is in its nature inseparable and indivisible, if not, "justice might be said to be lame as well as blind among us." The only plausible argument which has been urged against this clause, is the expense; it is true that expense must in some degree be necessarily incurred, but it will chiefly consist with the organization of your courts, and the erection of such buildings as may be essential, such as court-houses, gaols, and offices, as the gentleman has mentioned; and what at all events do such expenses amount to? They are the price that is paid for the fair and equal administration of your laws; from your amazingly increasing system of Government, causes must necessarily multiply in a proportionably extensive ratio; these causes must be tried somewhere, and whether it is in a State court, or Federal judicature, can, in the article of expense, make but little difference to the parties; it is only (for the sake of more impartial justice) transferring the business from one tribunal to another.

The gentleman has told us, that the people do not like courts; that they have been opposed and prevented by violence; nay, by an insurrection in Massachusetts. Surely this operates as a powerful reason to prove that there should be a general, independent, and energetic jurisdiction; otherwise if either of the State Judges should be so inclined, or a few sons of faction so assembled, they could ever frustrate the objects of justice; and, besides, from the different periods fixed by the constitution of the United States, and the different constitutions of the several States, with respect to the continuance of the Judges in office, it is equally impossible and inconsistent to make a general, uniform establishment, so as to accommodate them to your Government.

He wished, he said, to see justice so equally distributed, as that every citizen of the United States should be fairly dealt by, and so impartially administered, that every subject or citizen of the world, whether foreigner or alien, friend or foe, should be alike satisfied; by this means, the doors of justice would be thrown wide open, emigration would be encouraged from all countries into your own, and, in short, the United States of America would be made not only an asylum of liberty, but a sanctuary of justice. The faith of treaties would be preserved inviolate; our extensive funding system would have its intended operation; our navigation, impost, and revenue laws would be exe-

cuted so as to insure their many advantages, whilst the combined effect would establish the public and private credit of the Union.

Mr. STONE.—I am mistaken if the whole subject has yet come before us in its full extent, and I think it ought to be thoroughly investigated before it is decided upon. I declare myself, Mr. Chairmau, much pleased with the discussion, and am gratified with the different points of view in which it has been placed; but I conceive there is a variety of considerations arising out of the subject which have not yet been touched upon. I have seriously reflected, sir, on the subject, and have endeavored to give the arguments all the weight they deserve; I think, before we enter into a view of the convenience of the system, it will be right to consider the constitutional ground on which we stand.

Gentlemen, in their arguments, have expressly or impliedly declared, that the constitution, in this respect, is imperative, that it commands the organization of inferior courts; if this doctrine is true, let us see where it will carry us. It is conceded on all hands, that the establishment of these courts is immutable. If the command of the constitution is imperative, we must carry it through all its branches; but if it is not true, we may model it so as to suit the convenience of the present time. It appears from the words of the constitution, that Congress may, from time to time, ordain and establish inferior courts, such as they think proper: Now, if this is a command for us to establish inferior courts, if we cannot model or restrain their jurisdictions, the words which give us the power from time to time so to do, are vain and nugatory. Do the words from time to time leave any thing to our discretion? Or must we establish in our own minds a given length of time to gratify its meaning? Are we to compare it with the case of a census, and confine it to a subsequent term of ten years? If you establish inferior courts upon this principle, you have expended your whole power upon the subject for that length of time, and cannot interfere until the term arrives which you have fixed in your own mind for the power to return. But the words ordain and establish will not only go to the appointment of Judges of inferior courts, but they comprehend every thing which relates to them; we have good authority for this opinion, because one branch of the Legislature has expressly laid it down in the bill before us; they have modified the tribunal; they have restrained its jurisdiction; they have directed appeals only to be had in certain cases; they have connected the State courts with the District courts in some cases; this shows that, in their opinion, the articles of the constitution gave them a latitude. It is not said in that instrument, that you shall exercise the judicial power over all those cases, but that the judicial power shall extend to those cases. If it had been the idea of the convention that its Judiciary should extend so as positively to have taken in all these

AUGUST 31, 1789.]

Judiciary.

[H. OF R.]

cases, they would so have declared it, and been explicit; but they have given you a power to extend your jurisdiction to them, but have not compelled you to that extension. Several gentlemen have mistaken this idea, and that on very different ground. The gentleman from Virginia has compared the exercise of the Judiciary to that of the Executive and Legislative powers, and seems from his arguments to infer, that if you do not extend the Judiciary power so as to take in all those cases which are specified in the constitution, that you will leave the Judiciary defective. The gentleman from New York seems to think it will be an abandonment of our Judicial power altogether: to what does the Legislative power of this Government extend? To a variety of cases which are not yet put in action; for instance, the Legislative power extends to excises and direct taxes. If you conceive the Judiciary incomplete, because you have not strained it to its utmost extension, cannot you see, from the same principle, that the Legislative power is not complete unless you extend it as far as you have the power? Do you divest yourself of the power by not exercising it? Certainly not. Suppose you were to lay as heavy a land-tax as the people could bear, (and this is in our power by the terms of the constitution;) and suppose the people were to ask you why you had done so, when there was no absolute necessity for it, would you answer that the constitution has given us the power, therefore we must exercise it? Certainly not. The constitution has given us power to admit that a suit in certain cases shall be brought for six-pence; this we may authorize to be done in an inferior court, from the District court it is carried to the Circuit court, and may be brought up into the Supreme Court. This power, I say, we have by the constitution; would it be proper to exercise it? But these circumstances would certainly follow from a construction that the constitution was imperative, and that you must establish inferior tribunals on the terms of the constitution. I understood it to be said, by the gentleman from New York, and decided, that the establishment of inferior courts would draw the whole Judiciary power along with them. If the clause in the constitution commands that inferior courts be established, what are their powers? They will claim all the jurisdiction to which it is declared the Judicial power shall extend, it is the right the constitution has given them after you have established the courts; any modification, therefore, or restriction of their power, would be a nullity: hence it appears to me, if the gentleman's principle is right, that part of your bill which restricts their cognizance to a particular sum is a nullity.

I apprehend that the gentlemen who support this bill have differed widely from the body that passed it, in supposing two things; first, that whatever Continental jurisdiction is exercised, that it follows they are Continental courts, and must have Continental salaries, and hold

their offices during good behavior; if this is the case, the Senate have done one of two things, they have either relinquished all the penalties due to Government for a non-compliance of the laws under one hundred dollars, by the 9th section of the bill; or they have established the doctrine which gentlemen on this side contend for. By this section they have given to the State courts jurisdiction in cases of an inferior magnitude; now the very moment any suit is brought by the United States, under one hundred dollars, before a State court, such court becomes a Continental court. I say they must run into this absurdity, or relinquish all suits under one hundred dollars. But if this is not the case; if they do not relinquish this sum, (and the Senate did not suppose this was ever to be given up,) they did what appears, upon the gentleman's principles, strange indeed: they leave Continental courts to be established by their bringing suits, or foreigners bringing suits into the State courts; and in this way they divest the President of his power of appointing judges of inferior courts. This appears to my mind a strange mode of reasoning.

A gentleman has said that it would be impracticable to admit the Judges of the several States to take cognizance of the laws of the United States, because they are laws *de novo*: this I think is the idea. I apprehend that Judges, when they have undertaken their duty, must be considered in two respects—as citizens and as judges. Now as men, they are to submit to the modification of the constitution as it respects them as citizens; and as Judges, they are to consider their relation as such to the constitution, and are to administer justice agreeably to that constitution; as Judges they may divest themselves of this relation; they may resign, but if they continue to act as judges, they are enjoined to obey the constitution of the United States, and laws established under it: now Judges know that it is in the power of the United States to change the State constitutions, and they must conform in every respect. A Judge binds himself not only to act upon the laws which have already passed, but to obey all that may hereafter pass. If it is admitted that the Judges cannot take cognizance of the laws *de novo*, you annihilate the Judicial capacity at a blow; they cannot notice the adoption of the Federal constitution or any law passed after appointment. I can hardly bring myself seriously to consider the subject in this reverse point of view. Gentlemen will be convinced, I hope, that I take all the pains I possibly can to understand and discuss the arguments made use of; they will admit that if my principles are right; Congress may establish the Courts on what terms they may think proper.

It will perhaps be well to consider what the State courts can do, and consider what they are not competent to, and the reason we should not trust them. It appears to me that there is nothing but what the State courts are competent to but certain cases which are specially de-

H. or R.]

Judiciary.

[August 31, 1789.]

signated; in cases where a State is a party, they ought not to decide, because they could not execute their judgment; they would be competent to all admiralty cases, but for the fact I mentioned before, that admiralty courts are not established in all the States. I take it to be true that all the judicial powers not taken away by the constitution from the States remain to them, and I take them to be complete republics, to have sovereign power, conformable to their nature; therefore, if the constitution of the United States had not interfered in the subject, even of treason against the Union, the States, I apprehend, except in a few instances, could not have taken notice of it, because I do not know any kind of treason against the United States but is also treason against a particular State. If a man raises an army in the body of a State, unauthorized by the State, is it not rebellion against the State? Suppose it to be done in this State, and they tell you it is not the State of New York they mean to oppose, it is the General Government, pray is not this treason against the State of New York, as a member of the Union? Is not a piracy committed against the United States committed against a particular State? If it had its sovereign authority unimpaired, would any gentlemen contend that they had not power to try for piracy? I apprehend they would not. If a bond is given to the United States, or a penalty accrues under the supreme law of the land, or if a debt is due to a foreigner, may it not be sued in any part of the Union? I believe there is little doubt but this might be properly done—the Senate, by this bill, have given us this construction: foreigners may sue and be sued in all the States. This has already been done; do gentlemen now contend, that these suits shall be exclusively in the Continental courts? If they do, it would be an infringement of the private contracts, it would be an *ex post facto* law. The citizen might suppose, when he contracted his debt, that he might bring his suit in a State court; if you exclude him from this privilege, you destroy the right he had; a right, notwithstanding all that may be affirmed of the wisdom, honesty, and expedition of the courts of the United States, yet to him it may appear ten to one better to be secured in his rights in State courts. I think the inconvenience which will attend these courts has been explained; but certainly it has not been fully considered how far the inconveniences heretofore sustained may be compared to the inconveniences which may hereafter happen; perhaps there are no instances in point. Gentlemen are mistaken, who suppose that because there are many tribunals in the State they are necessarily exposed to the same difficulties as will arise from the establishment of Federal and State courts. I will state a case: A man is taken in Maryland by a writ from the county court, to which he gives bail. If he is taken by writ from the general court, he must also give bail, or go to prison. But if he is unable on the first writ to give bail and goes to prison, then the sheriff returns to

the general court that he has taken him, and he is in gaol. This is a good return, as well in civil as in criminal process; as well upon mesne process as in executions; and if either of the courts required his appearance in court, an *habeas corpus* may be granted; by which he will be brought into court, and remanded, if proper. Here is no danger of defeating rights, nor acquiring inconvenience, because the same gaol will be made use of, and the same sheriff will hold, and always be liable for his prisoner. As the courts are connected they will *ex officio* take notice of, and admit the proceedings of, each other.

But in different tribunals, not connected, mischiefs may happen. Will a sheriff be justifiable in delivering up his prisoner to the marshal, or will it be a proper return by the marshal that the prisoner is kept by the State sheriff. If the first position is true, you ought to show that the marshal is liable to the State creditor for an escape, and you ought also to show that the marshal will return his prisoner to the State jail. If the second, you ought to show that the sheriff is justifiable in detaining a man after the cause for which he was committed to his custody ceased. An execution against the property depends upon the same principles; because the priority avoids all difficulty. If all the property is taken by the prior execution, the return of that fact is a proper return. But property is bound by the time of judgment in some cases, and the time of execution is put into the sheriff's hands in others. Now there is no difference where the same sheriff receives all. But suppose there is a different time of rendering judgment, and of receiving execution, and both are levied at the same time either upon body or goods. The rules of the courts are different; there will be different determinations in each, and perhaps each justifying their own affirmation. Even they may clash as to a matter of right. Suppose goods are stolen, and a prosecution is set on foot in the Federal court as of goods belonging to the United States, and at the same time an indictment is laid in the State court, for stealing goods, as for the goods of A: there is a conviction in each; the goods are to be returned to the owner. Now the courts in their several capacities justify their officers; and they proceed severally to seize goods or body; and failing in strength, the *posse comitatus* is raised on both sides; murder may be the consequence; and if it should, each court justifying the act of its officers, and condemning the others, all the officers in the different courts must be hanged for acting legally.

These are the inconveniences which result from a system of this kind, and why are these inconveniences to be encountered? Is it because such a system will be popular? I cannot conceive it warrantable upon this ground; it seems to me to be laid upon a principle directly opposite to that of being agreeable to the people. Will it be agreeable to the Judges? That can-

AUGUST 31, 1789.]

Judiciary.

[H. OF R.]

not be, because it is intended to correct the vices of the State Judiciaries. Will it be considered as necessary by the State Legislature? Gentlemen have agreed, that it will not be agreeable to the State Legislatures, and we find in general, the sentiments of the people expressed by the Legislatures: from these circumstances, I conceive that this system cannot, in its nature, be agreeable to the State Governments, or to the people. I do not think this, then, the proper time to establish these courts; it is a measure on which the affection and attachment of the people to the constitution will be risked; it is best to defer the business till the necessity of these courts shall become apparent. I could therefore wish, that the power should be reserved for the occasion, and that nothing should be done the present session but what is absolutely necessary, lest by extending these matters too far, we should give the people a disposition to curtail our authority; they might then not confine themselves to an alteration in the Judicial department alone, they might extend it so far as to injure the Executive and Legislative, if not to the total change or destruction of the whole system of Government. I am, sir, for this Government moving as silently as death, that the people should not perceive the least alteration for the worse in their situation; the exercise of this power will certainly be the most odious that can be exercised, for mankind do not generally view courts of justice with a favorable eye, they are intended to correct the vices of the community, and consequently are disagreeable to human nature. It was well observed, and I concur in the opinion, that of all the wheels in Government, the Judicial is the most disagreeable.

Mr. GERRY.—The gentlemen who support the motion for striking out the clause, urge that this system will interfere with the State Judiciaries, that it will occasion a double set of officers, separate prisons and court-houses, and in general that the expenses will increase to a degree heretofore unknown, and consequently render the establishment obnoxious to the community. These objections are of such weight, as to have made deep impression on my mind. But what do gentlemen propose? Do they believe that these disadvantages can be remedied by Congress? I think they cannot; they result from the constitution itself, and therefore must be borne until the constitution is altered, or until the several States shall modify their courts of judicature so as to comport with our system.

Gentlemen have said, that the Federal Judiciary will be disagreeable to the citizens of the United States. These it should be recollected were divided into two classes; the one was for an unconditional ratification of the present constitution; the other was against such a measure. There appeared to be a majority of the first description, and we must suppose they understood what would be the operation of the system of Government they adopted with such avidity; if they did not, they entrusted the de-

cision to conventions of men whom they supposed did. We must admit that they knew their business, and saw it would be for the benefit of their constituents, or we must suppose they were weak or wicked men to adopt a constitution without understanding it: this last supposition being inadmissible, I take it, then, their observations only refer to that part of our fellow-citizens who were against the unconditional ratification. Now I believe with them, that this part of the community, at least, will be uneasy under the operation of such a Judicial system. But how can it be remedied? The motion of the honorable gentleman from New Hampshire extends to prevent the establishment of inferior tribunals, except for the trial of admiralty causes; what, then, is to be done with all the other cases of which the Supreme Court has only appellate jurisdiction? You cannot make Federal courts of the State courts, because the constitution is an insuperable bar; besides, the laws and constitutions of some States expressly prohibit the State Judges from administering, or taking cognizance of foreign matters. New Hampshire requires all her civil officers to be appointed by the Legislature, and for what length of time they shall determine; now this is contrary to the indispensable tenure required by the constitution of the United States. All Judicial officers in Massachusetts must be appointed by the Governor, with the advice of council, and may be removed by the same power, upon the address of both Houses of the Legislature. There is another provision in the same constitution, incompatible with the terms of the Judicial capacity under Congress. "All writs issuing out of the clerk's office, in any of the courts of law, shall be in the name of the commonwealth of Massachusetts, &c." The constitution of Maryland establishes their Judges on the tenure of good behavior; but they may be removed for misbehavior, on conviction in a court of law. The Judges of the Federal court are to be removed only by impeachment and conviction before Congress. I suppose the same, or similar difficulties exist in every State, and therefore the State courts would be improper tribunals to administer the laws of the United States, while the present constitution remains, or while they are not established by the individual States, upon the terms required in this constitution.

We are to administer this constitution, and therefore we are bound to establish these courts, let what will be the consequence. Gentlemen say they are willing to establish Courts of Admiralty; but what is to become of the other cases to which the continental jurisdiction is extended by the constitution? When we have established the courts as they propose, have fixed the salaries, and the Supreme Executive has appointed the Judges, they will be independent, and no power can remove them; they will be beyond the reach of the Executive or Legislative powers of this Government; they will be unassailable by the State Legislatures;

H. OF R.]

Judiciary.

[August 31, 1789.]

nothing can affect them but the united voice of America, and that only by a change of Government. They will, in this elevated and independent situation attend to their duty—their honor and every sacred tie oblige them. Will they not attend to the constitution as well as your laws? The constitution will undoubtedly be their first rule; and so far as your laws conform to that, they will attend to them, but no further. Would they then be confined by your laws within a less jurisdiction than they were authorized to take by the constitution? You must admit them to be inferior courts; and the constitution positively says, that the Judicial powers of the United States shall be so vested. They would then inquire what were the Judicial powers of the Union, and undertake the exercise thereof, notwithstanding any Legislative declaration to the contrary; consequently their system would be a nullity, at least, which attempted to restrict the jurisdiction of inferior courts.

It has been said, that much inconvenience will result from the clashing of jurisdiction. Perhaps this is but ideal; if, however, it should be found to be the case, the General Government must remove the obstacles. They are authorized to suppress any system injurious to the administration of this constitution, by the clause granting to Congress the power of making all laws necessary and proper for carrying into execution the powers of the constitution, or any department thereof. It is without a desire to increase the difficulties of the proposed arrangements, that I make these observations, for I am desirous of promoting the unity of the two Governments, and this, I apprehend, can be done only by drawing a line between the two Judicial powers.

MR. JACKSON.—I would not rise again, but from the great anxiety I feel to have this business well understood and determined. I am not for doing away the whole of the Judiciary power, but so ameliorating it as to make it agreeable and consistent. My heart, sir, is federal; and I would do as much as any member on this floor, on any, and on every occasion, to promote the interests and welfare of the Union. But in the present important question, I conceive the liberties of my fellow-citizens too deeply involved to suffer me to risk such a precious stake, though to secure the efficiency of a National Government.

It has been said in this debate, that the State Judges would be partial, and that there were no means of dragging them to justice. Shall I peremptorily tell the gentlemen who hold this opinion, that there is a constitutional power in existence to call them to account. Need I add that the Supreme Federal Court will have the right to annul these partial adjudications? Thus, then, all these arguments fall to the ground, on the slightest recollection.

Will gentlemen contend that it is for the convenience and security of the people that these inferior courts should be established? I

believe this sentiment may be successfully controverted. The accurate Marquis Beccaria points out a danger which it behooves us to guard against. In every society, says he, there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and diffuse their influence universally and equally. But men generally abandon the care of their most important concerns, to the uncertain prudence and discretion of those whose interest it is to reject the best and wisest institutions; and it is not till they have been led into a thousand mistakes in matters the most essential to their lives and liberties, and are weary of suffering, that they can be induced to apply a remedy to the evils with which they are oppressed. It is then they begin to conceive and acknowledge the most palpable truths which, from their simplicity, commonly escape vulgar minds, incapable of analyzing objects, accustomed to receive impressions without distinction, and to be determined rather by the opinions of others than by the result of their own examination.

This celebrated writer pursues the principle still further, and confines what we urge on our side against an unnecessary establishment of inferior courts. He asserts, with the great Montesquieu, that every punishment which does not arise from absolute necessity is tyrannical; a proposition which may be made more general thus, every act of authority of one man over another for which there is not an absolute necessity is tyrannical. It is upon this, then, that the sovereign's right to punish crimes is founded; that is, upon the necessity of defending the public liberty entrusted to his care, from the usurpation of individuals; and punishments are just, in proportion as the liberty preserved by the sovereign is sacred and valuable.

He now wished the House to consider whether there was a necessity for the present establishment; and if it should appear, as he thought had been plainly shown, that no such necessity existed, it would be a tyranny which the people of this country never would be content to bear.

He had attended to the arguments of gentlemen who insisted upon the necessity of such establishments; but his mind was far from being satisfied that the necessity existed. In the constitution it is declared that the Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish. From hence he presumed that there was a constitutional necessity for the establishment of a Supreme Court, but there was a discretionary power in Congress to establish, from time to time, inferior courts; but until they are appointed, it cannot be contended that the State courts are deprived of taking cognizance of certain cases enumerated in the constitution. If Congress do not think there is a constitutional necessity, they ought not to

AUGUST 31, 1789.]

Judiciary.

[H. OF R.]

appoint them, because they are burthensome and disagreeable to the people.

He presumed that there was no greater constitutional necessity under the present constitution than there was under the late articles of confederation. It is there declared, that Congress may, from time to time, institute inferior courts, for the trials of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally in all cases of captures; yet these powers were carried into execution under the State Judiciaries. There is not a State but has exercised the Admiralty jurisdiction in its fullest extent; they have not determined inferior cases only, they have not been confined even to the condemnation of goods and vessels, but they have condemned and executed persons for piracy. If, then, they could do this, notwithstanding a solemn contract in the confederation, why cannot it be done in the present case? We trust the State Judiciaries with jurisdiction in some cases, why cannot we trust them in all? Will gentlemen pretend to say that the check furnished by the Supreme Courts, to revise and correct their judgments on appeal, is not sufficient to secure the due administration of justice? They cannot pretend to make such an assertion on mature deliberation.

MR. LIVERMORE.—It has been said that this Government cannot be carried into execution, unless we establish inferior courts, because the State Judges would not be bound to carry our laws into execution. I will just read a few words in the constitution, in order to determine this point: in the sixth article it is said, that all Executive and Judicial officers, both of the United States, and the several States, shall be bound by oath or affirmation, to support this constitution; and in the same article it is also declared, that this constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, any thing in the constitution or the laws of any State to the contrary notwithstanding. He looked upon this to be a clear answer to all the objections drawn from that source. He would ask the gentleman whether the State courts were not adequate to decide all these questions from the time the constitution was ratified till this day. He presumed they were, and might continue to exercise jurisdiction until Congress thought proper to establish such inferior courts as they were authorized to do, but which he did not think at this time to be necessary.

MR. LAWRENCE was willing to give the constitution all the effect it ought to have; but he would not be willing to carry into operation any part of it unnecessarily, especially if the inconveniences and dangers so often repeated must be the consequence. He had endeavored to investigate the subject, and satisfy his own mind,

with respect to the propriety of the present measure; he found, by the constitution, that there were several powers given to the Government, but vested in different branches. He presumed that they were for beneficial purposes, and ought to be exercised when an occasion presented. The Executive power had been exercised already as occasion required, the Legislative power had been extended in the same manner. We are now about to extend the powers of the Judiciary; and it has been asked, shall we employ this power in all the cases to which it extends, or shall we employ it to certain enumerated cases alone? He was of opinion that it ought to be employed so as to embrace all the cases which necessity required; it is admitted, on all hands, that necessity requires we should establish superior, and some kind of inferior courts. The only question that then remained, was to know how far this extended; it was not, therefore, a question on principle, but a question of expediency, and in this view he considered the bill to be proper.

MR. GEARY thought the gentleman from New Hampshire extended the sixth article of the constitution too far; for the State Judges would not be bound by any law altering the State constitution, unless such law was necessary to carry into operation the constitution of the Union.

MR. SUMNER could not reconcile it to himself to sit and give a silent vote on this important question; at the same time he was loath to take up the time of the committee when they were impatient to come to a decision. He did not rise, however, to object to the Legislature possessing the power of adopting the present system, because he thought the new constitution warranted the exercise of it; but he questioned whether it was expedient at the present moment. He knew too sensibly the situation of his constituents, to suppose that such an expensive and distrustful system could be agreeable to them. It would be cruel in their present distressed situation, to encumber them with a branch of Government, which could be as well, and perhaps better, done without. It was hostile to their liberties, and dangerous in the extreme; he could not think so ill of his fellow-citizens as to suppose that the rein of despotism was necessary to curb them. Under these impressions, he could not help expressing his dissatisfaction with the present bill; it was a system of oppression which the people neither desired, nor were prepared to receive. Gentlemen ought to recollect that the constitution was adopted but by a small majority of the people of the United States, if any majority at all; however, this point he would not now contend; but he would be bold to say, that it was adopted under a firm confidence that it would exercise no tyrannical power. At this early period, then, it would be dangerous to the existence of Government to assume authority for which there was not an absolute necessity.

Gentlemen urged that this was not an expensive Government; but to the eye of the peo-

H. of R.]

Judiciary.

[SEPTEMBER 1, 1789.]

ple, who have not been accustomed to such a numerous set of officers, it would not appear in the same light. Will it be thought that the establishment of numerous courts are without expense, or that they will exercise their jurisdiction without oppression? Or do gentlemen believe that the circumstances of the people are able to bear the expenses of a double band of officers? If such is their opinion, they are certainly mistaken, at least so far as it respects the State of South Carolina. Will gentlemen contend that this Judicial establishment will not bring about the destruction of the State Judiciaries? And are they prepared to prove, to the satisfaction of my constituents, that such a measure would tend to preserve the liberties of America? Is the licentiousness which has been complained of in our State courts, so great as to warrant an exertion of power, little, if any thing, short of tyranny? I cannot believe it is. The people of America do not require the iron hand of power to keep them within due bounds; they are sufficiently enlightened to know and pursue their own good. How, then, will they receive a system founded upon distrust, and levelled against the free exercise of that liberty which they have secured to our common country? Cannot a more moderate and convenient mode be found out? Most certainly it can. Let us then reject the present system, and endeavor to introduce one more adapted to their convenience and expectations. I have no doubt but the abilities in this House would produce one infinitely more acceptable than that on the table, and which would secure the happiness and harmony of this country.

Mr. BURKE.—Although I foresee I shall have the honor to vote in the minority, yet I wish to say a few words, that the reasons of my opposition to the bill may be fully understood. The motion made by the worthy member from New Hampshire, (Mr. LIVERMORE,) I wish to support, provided he intends by it to throw out the whole bill. For I am persuaded, if it passes, that consequences of a serious nature to the privileges of the people will flow from it. It will materially affect the trial by jury, and overturn that system of administering justice which time and long experience have recommended to our citizens. To show this, I shall only advert to the twenty-ninth section; out of this, sir, will arise constructions and consequences, of which people in general will form no conception; it requires some share of law-knowledge to comprehend it. Whoever drew that clause did it artfully, and with a view of concealing the features of it: and I give him full credit for the share his head had in it. Read the words, and you see held out to the citizen a fair and impartial trial by a jury of the vicinage, while it insidiously strips him of this happy privilege. For if a man be charged with treason, or other offence against the Government, committed as far back as Lake Ontario, instead of being brought to trial in the county, or district, where he is said to have

committed the offence, as the State law directs at present, he is to be dragged down to the city of New York, to take his trial there; not by a jury taken from the country at large, as at present, but this section is so subtly framed, that a jury may be picked, not merely within the city, but within any particular ward of it.

The State to which I belong is divided into seven districts or counties; and a person accused of committing a capital offence in one county, as the law is at present, must be tried in that county, and no other; the jury must also be of the same county, and to be drawn by ballot, in order to secure a fair and impartial trial to the prisoner. But of this glorious and happy privilege the citizens of South Carolina are stript by the twenty-ninth clause of this Judiciary bill, as it now stands. If charged with committing a capital offence against the United States, at a place as far back as the Alleghany mountains, he is carried down to the city of Charleston, far from the aid of his friends, far from his witnesses; and if, in times of civil troubles, he be obnoxious to those in power, to be tried for his life in the fangs of his enemies.

Here he proposed to make some observations on a late publication, when Mr. BODINOT asked if the gentleman was in order, or if he did not wander from the point in debate? Mr. BURKE said he could not resist what he thought his duty, to give every opposition in his power to oppose the bill; if he failed, he lamented the circumstance, but should pay that deference to the law which every good citizen ought to do.

On putting the question on Mr. LIVERMORE'S motion for striking out the third clause of the bill, the House divided; eleven voted for, and thirty-one against it; so it passed in the negative.

The committee rose and reported progress; and then the House adjourned.

TUESDAY, September 1.

A message from the Senate informed the House that they had passed a bill for the punishment of certain crimes against the United States, to which they request the concurrence of this House. Also a bill for allowing a compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses, with several amendments, to which they desire the concurrence of this House.

The House proceeded to consider the report from the Committee of Elections of the 18th of August last, relative to the petition of a number of the citizens of the State of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State, which lie on the table; and having made some progress therein,

Ordered, That the further consideration of the said report be put off until to-morrow.

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

WEDNESDAY, September 2.

Several petitions from the inhabitants of Philadelphia, and Bucks and Montgomery counties, in the State of Pennsylvania, were presented to the House and read, praying that the permanent seat of Congress may be established at the place known by the name of Old Philadelphia, on the west side of the river Delaware.

The House resumed the consideration of the report from the Committee of Elections, touching the petition of a number of the citizens of the State of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State: Whereupon,

A motion being made, and seconded, that the House do agree to the following resolution,

Resolved, That it appears to the House, upon full and mature consideration, that JAMES SCHUREMAN, LAMBERT CADWALADER, ELIAS BOUDINOT, and THOMAS SINICKSON were duly elected, and returned to serve as Representatives for the State of New Jersey, in the present Congress of the United States: It was carried in the affirmative.

The House proceeded to consider the amendments proposed by the Senate to the bill for allowing a compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses.

Resolved, That this House doth disagree to the first, second, and third amendments, and doth agree to all the other amendments to the said bill.

The bill sent from the Senate for the punishment of certain crimes against the United States, was read the first time.

Several orders of the day were postponed, and the House adjourned.

THURSDAY, September 3.

The bill for suspending part of the collection act, was passed, and transmitted to the Senate.

A return of the imports and exports of Georgia was received from George Walton, Esq., governor of that State, which was ordered to lie on the table.

The bill for the punishment of certain crimes was read the second time, and committed to a Committee of the whole.

PERMANENT SEAT OF GOVERNMENT.

The House resolved itself into a Committee of the whole, to take into consideration the motion presented by Mr. SCOTT, on Thursday last for establishing the permanent residence of Congress; Mr. BOUDINOT in the chair.

Mr. GOODHUE.—The motion before the committee I consider too indefinite for the House to decide upon satisfactorily; I wish, therefore, to add something which may bring the question to a point. It is well known that the gentlemen from the Eastward are averse to taking up this business at this time. Not that the subject was improper for our discussion, but that the present session is drawing to a period, and there remains yet much important busi-

ness to be transacted before the adjournment; but their opinion being overruled by a late vote of the House, they have since taken it into consideration, and are now ready and willing to come to a decision. The Eastern members, with the members from New York, have agreed to fix a place upon national principles, without a regard to their own convenience, and have turned their minds to the banks of the Susquehanna. This is a situation as nearly central as could be devised, upon some of the principles contained in the resolution. It is, however, supposed to be considerably to the southward of the centre of the population. Motives of convenience would have led us to fix upon the banks of the Delaware, but it was supposed it would give more lasting content to go further south. They were, therefore, unitedly of opinion, that the banks of the river Susquehanna should be the place of the permanent residence of the General Government; and that until suitable buildings could be there erected for accommodation, they should remain in the city of New York. Agreeably to these ideas, I move the following resolution:

Resolved, That the permanent seat of the General Government ought to be in some convenient place on the east bank of the river Susquehanna, in the State of Pennsylvania; and that until the necessary buildings be erected, for the purpose, the seat of Government ought to continue at the city of New York.

Mr. STONE said, it ought to be "Government of the United States," instead of General Government.

Mr. LEE.—The House are now called upon to deliberate on a great national question; and I hope they will discuss and decide it with that dispassionate deliberation which the magnitude of the subject requires. I hope they will be guided in this discussion and decision, by the great principles on which the Government is founded. I have, with a view, therefore, of bringing them before a committee, drawn up a preamble, which recognises them, in the words following:

Whereas the people of the United States have assented to and ratified a constitution for their Government, to provide for their defence against foreign danger, to secure their perpetual union and domestic tranquillity, and to promote their common interests; and all these great objects will be best effected by establishing the seat of Government in a station as nearly central as a convenient water communication with the Atlantic ocean, and an easy access to the Western Territory will permit; and as it will be satisfactory to the people of the United States, and give them a firm confidence in the justice and wisdom of their Government, to be assured that such a station is already in the contemplation of Congress; and that proper measures will be taken to ascertain it, and to provide the necessary accommodations, as soon as the indispensable arrangements for carrying into effect the constitution can be made, and the circumstances of the United States will permit;

Resolved, That a place, as nearly central as a con-

venient communication with the Atlantic ocean, and an easy access to the Western Territory, will permit, ought to be selected and established as the permanent seat of the Government of the United States.

I wish the principles to be recognised, that the people of the United States may be able to judge, whether, in the measures about to be adopted, they are carried into execution by this House. If these great principles are not observed, it will be an unhappy fulfilment of those predictions which have been made by the opponents of the constitution; that the general interest of America would not be consulted; that partial measures would be pursued; and that, instead of being influenced by a general policy, directed to the good of the whole, one part of the Union would be depressed and trampled on, to benefit and exalt the other. Instead of accomplishing and realizing those bright prospects which shone upon us in the dawn of our Government, and for which our patriots fought and bled, we shall find the whole to be a visionary fancy. I flatter myself, that before the House decides on the question before them, those principles will be recognised, if it is meant they shall be regarded.

Mr. CARROL seconded Mr. LEE's motion.

Mr. SHERMAN said, if they were both adopted, or blended together, they would only amount to a preamble, and determine nothing. He thought the first preamble the best, inasmuch as it stated the principles simply and concisely.

Mr. HARTLEY.—Several places have been mentioned, and some have been offered to Congress as proper situations for the Federal Government. Many persons wish it seated on the banks of the Delaware, many on the banks of the Potomac. I consider this as the middle ground between the two extremes. It will suit the inhabitants to the north better than the Potomac could, and the inhabitants to the south better than the Delaware would. From this consideration, I am induced to believe, it will be a situation more accommodating and agreeable than any other. Respecting its communication with the Western Territory, no doubt but the Susquehanna will facilitate that object with considerable ease and great advantage; and as to its convenience to the navigation of the Atlantic ocean, the distance is nothing more than to afford safety from any hostile attempt, while it affords a short and easy communication with navigable rivers and large commercial towns. Nay, its intercourse may be without land carriage, if proper measures are pursued to open the navigation to the Delaware and Chesapeake. Perhaps, as the present question is only intended to be on general principles, it may be improper to be more minute than the honorable mover has been; but I think it would be better to come to the point at once, and fix the precise spot, if we could. With this view, I mention Wright's Ferry on the Susquehanna. Not, however, that the House should decide upon it, until they have

ascertained its advantages, which will, perhaps, come more properly forward when the question on the preamble is determined.

Mr. SENDWICK.—I hope that the motion of the honorable gentleman from Virginia will not obtain. Gentlemen who urged, the other day, to have this business brought on, cannot fail to recollect, that they were called on and entreated to defer this business. They were told, that this was not the time, consistently with the real good of the country, to determine the permanent residence of Congress. They were told, that the Government was not yet in operation, that the Union was not yet complete; that gentleman particularly, and the majority of the House, supposed, that suspending it would occasion so much dissatisfaction and agitation that the peace and happiness of the country required a speedy decision, and it was resolved to bring the business on immediately. I am now ready to meet the gentlemen, and am prepared to decide upon the important subject. I shall oppose the motion of Mr. LEE, because it involves unnecessary altercation.

Mr. VINING did not consider this resolution as a preamble. It was only settling some general principles, by which the House were to be governed in coming to a final determination. Was there a sentence in the propositions which could be denied? Was it not proper and expedient, that the Government should be fixed at some central place? If that was proper, why not express it? Was it unusual? Was it repugnant to the forms of legislation? What could be the operation of the principles? Every gentleman would have an eye to some fixed and leading maxims. It would regulate and facilitate his conclusions. On these accounts, he was in favor of the motion. He agreed that this was a matter of the highest importance. He wished that all exterior circumstances might combine in aid of the Government, and every principle be attended to which could preserve and add strength to it. While we had a WASHINGTON, and his virtues, to cement and guard the Union, it might be safe; but when he should leave us, who would inherit his virtues, and possess his influence? Who would remain to embrace and draw to a centre, those hearts which the authority of his virtues alone kept in Union?

Mr. TUCKER felt some embarrassment on this question, and wished to know what gentlemen were going about. It seemed to him that the proposition was a preamble; and he would ask, whether it was customary to agree to a preamble before the substantial part of the resolution was known? The principles mentioned in the preamble, were of such extent as could not be determined; they might lead to consequences about which no member could form an opinion. He wished to know gentlemen's objects before he pledged himself. It was possible he might go with the mover in agreeing to the result of his propositions; but he could not agree to fetter himself with re-

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

straints, or be led blindfolded, even to the truth itself. This mode of reasoning was like the Socratic; he could not discover what was to flow from affirming or denying. It was asking him, if he admitted this proposition and that; until he admitted so much, as to enable his adversary to draw from premises, which he had been allured to grant from their speciousness, conclusions he had never contemplated. He did not like the idea of making laws syllogistically. He hoped, therefore, the gentleman would relinquish all idea of determining on the preamble, until the substantial proposition was agreed to.

Mr. LEE.—I wish to assure the honorable gentleman who spoke last, that fair dealing is my object. I wish to bring forward those considerations which ought to guide our judgments. A question is to be decided which involves present and future interests, and extends to remote generations. The question is to be settled which must determine, whether this Government is to exist for ages, or be dispersed among contending winds. Will gentlemen say these principles ought not to be recognised? Will gentlemen say, that the centre of Government should not be the centre of the Union? Shall it not be a situation which will admit of an easy communication to the ocean? Will they say, that our Western brethren are to be disregarded? These are the momentous considerations which should lead the House to a conclusion. If they are disregarded, it will be an alarming circumstance to the people of the Southern States. They have felt these alarms already. It was with difficulty, on another occasion, that their apprehensions on this score were quieted, and their difficulties surmounted. If this question is decided, without regarding these interests, it will be said, that a Congress is found, who are not disposed to recognise the general principles of the Government. I have come forward with such explicit propositions as the interest of my country dictates. Some principles ought to be previously established as a guide, as a polar star, to lead the committee to just conclusions. I am not for delay. Gentlemen will find, that the proposition contains nothing like delay; when it is adopted, I will come forward with as explicit propositions as the general weal of America demands.

Mr. THATCHER was against a preamble being prefixed to the resolution of the committee, because the House had, on every occasion when preambles were brought forward, rejected them. He thought this a prudent conduct, because it avoided embarrassments. He observed, that it was not unfrequently the case that the preambles occasioned more difficulty in understanding the laws than the most intricate part of the laws themselves; and, therefore, the committee would act wisely to reject such trammels. He conceived, moreover, that the motion was out of order as it was a substitute for one before the committee.

Mr. SHERMAN thought that the committee had better proceed and fix upon the place, than to delay the business, by adopting principles which were not essential to be prefixed; if they were found afterwards necessary they might be added.

Mr. STONE thought the gentleman from South Carolina need not fear the adoption of the principles contained in the motion of the gentleman from Virginia; if the principles were just, there was no fear that the extension of them would lead to any improper decision.

Mr. SENEY agreed, that the subject was important, and ought to be decided on fixed and acknowledged principles; but he should vote against the adoption of those brought forward by the gentleman from Virginia, because they were anticipated by those laid on the table last week by the gentleman from Pennsylvania. He was not, however, impressed with the necessity of having any preamble at all.

Mr. SMITH (of South Carolina) looked upon the motion as a preamble to a preamble, both of which he conceived unnecessary; nay, he doubted the truth of some of the assertions. So far from cementing the Union, by a measure of the kind in contemplation, he rather feared it would have a tendency to rend the Union in two; for which reason he was against adopting it.

Mr. TUCKER wished the proposition might lie on the table, to give gentlemen time to consider it.

Mr. LEE conceived it proper to adopt the preamble as a guide to their decision. No gentlemen pretended to say it contained improper principles. As to the whole being a preamble to a preamble, he did not conceive that to be the case, because the resolution, subsequent to the preamble, decided, that Congress should select a place for their permanent residence. He did not conceive how gentlemen could refuse their assent to a self-evident proposition. He thought such conduct would give an alarm to the inhabitants of the United States; it amounted to a declaration, that, on this important question, they would not be governed by principles founded on rectitude and good policy.

Mr. MADISON.—I cannot, Mr. Chairman, discover why the opposition to my colleague's preamble is so strenuous. Is it contended to be out of order? I submit that to the decision of the chair. Does it contain any thing which is not true? I appeal, on that point, to the candid judgment of the committee. Are the truths in it applicable to the great object we are about to decide? I appeal to the justice and policy of the people of the United States.

I flatter myself the chair will decide with me, that the proposition is strictly in order; that the committee will agree, that its contents are substantial truths; and the whole world, that they are applicable to the important point now under consideration.

It declares the principles which ought to govern our decision on this question, and will,

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 3, 1789.]

therefore, stand properly prefixed to the motion offered by the gentleman from Massachusetts (Mr. GOODHUE.) By it we declare our sentiments, and engage to conform to them, in fixing upon a seat for the residence of Congress. Is there any thing improper or unwise in this determination? An honorable gentleman near me (Mr. TUCKER) says, that he feels himself embarrassed on this occasion; that the propositions are a bandage over his eyes, to lead him blindfolded to an object he cannot tell what. I must beg leave to differ from him. They appear to me to contain those luminous truths which ought to guide him through his embarrassment to the object which I am sure his justice and patriotism are in pursuit of. I hope, therefore, he will agree with us in adopting the motion, unless something more essential is offered against it.

Mr. SHERMAN.—The resolution connected with the preamble contains a proposition which, I think, ought not to be adopted. It selects a place, having a convenient water-communication with the Atlantic. Now, it may be just and expedient to fix upon a place at some distance from a navigable river, therefore it may not agree with the intention of the committee. As to the principles, which are to guide our decisions, they are as well expressed in the propositions of the gentleman from Pennsylvania as in the substitute, and as free from ambiguity.

Mr. AMES.—I am at a loss to conceive why the gentlemen from Virginia are so agitated and anxious to press the subject of this resolution. One gentleman has asked, is there any thing contained in the proposition which is not true? Is there any thing which is not applicable to the subject? And, by way of conclusion asks, whether the resolution shall not pass? But is such a conclusion necessary to these premises? If they are true, why be so solicitous? Does truth acquire any additional authority from being frequently voted? If they are truths, will not those truths guide us? But I have, sir, another difficulty. If the committee shall vote for these propositions, the gentleman may exhibit other abstract questions for our consideration without limitation, and support them by the same argument. He may ask you, are not these things true? Are they not applicable? And, in this way, we may encumber our journals with all the multifarious propositions which arise out of this fertile subject. But is there any necessity for it? Will it not embarrass the committee? Sir, it is not our business to syllogize upon abstract principles, like school logicians, but to settle facts. I contend, if the principles dilated in the motion are incontrovertibly true there is no use in inserting them.

The question on Mr. LEE's motion was taken, and determined in the negative; yeas 17, nays 34.

Mr. TUCKER declared, that the majority for fixing upon any set of principles whatever,

could not govern his mind with regard to the fact. If, on the whole, he did not think that place best, which the principles adopted seemed to lead to, he certainly could not vote for it. Of what use, then, was it to establish principles which could not govern the conduct of the House? But the principles offered are vague, and led to no certain conclusion. What is the centre of wealth, population, and territory? Is there a common centre? Territory has one centre, population another, and wealth a third. Now, is it intended to determine a centre from these three centres? This was not a practicable mode of settling the place; and it was to be doubted whether the centre of wealth ought at all to be considered. The centre of population is variable, and a decision on that principle now might establish the seat of Government at a very inconvenient place to the next generation. The centre of territory may be ascertained, but that will lead to a situation entirely ineligible; consequently, whether these centres were considered separately or together, they furnish no satisfactory direction, no possible guide to the committee. The only way, then, to come at a result yielding satisfaction, would be to consider the several places to be proposed, according to their merits; and this would be done by gentlemen in the course of the business. He was, therefore, against settling any principles by vote.

Mr. MADISON.—I move to strike out the word wealth, because I do not conceive this to be a consideration that ought to have much weight in determining the place where the seat of Government ought to be. The two other principles, I admit, are such as ought to have their influence; but why wealth should be not so clear. Government is intended for the accommodation of the citizens at large; an equal facility to communicate with Government is due to all ranks; whether to transmit their grievances or requests, or to receive those blessings which the Government is intended to dispense. The rich are certainly not less able than those who are indigent to resort to the seat of Government, or to establish the means necessary for receiving those advantages to which, as citizens, they are entitled.

I should rather suppose, if any distinctions are to be made, or superior advantages to be enjoyed from the presence of the Government, that the Government ought rather to move toward those who are the least able to move toward it, and who stand most in need of its protection.

The question on this motion was taken, and passed in the negative. Yeas 22, Nays 28.

The question on Mr. SCOTT's motion was then taken, and adopted. Yeas 32, Nays 18.

Mr. GOODHUE's motion was now taken into consideration.

Mr. LEE hoped that gentlemen would show how the banks of the Susquehanna conformed with the principles laid down in the resolution adopted by the House; how it communicated with the navigation of the Atlantic, and how it

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

was connected with the Western Territory. He hoped they would also point out its other advantages, respecting salubrity of air and fertility of soil. He expected all these advantages ought to be combined in the place of the residence of the Federal Government, and every other requisite to cement the common interest of America.

MR. HARTLEY wished some gentleman had risen to satisfy the inquiries of the honorable member, who could have given a description of the advantages of that situation in better language than himself. But as no gentleman had offered to undertake the subject, he thought himself bound to make him an answer; and he trusted, in doing this, he should clearly show that all the advantages contemplated would result from adopting the motion. But he wished it had extended further, and selected the place most convenient on the banks of the Susquehanna, as then the answer would be more pointed and decisive. He had already mentioned Wright's Ferry, and would consider that as the proper spot. Now, Wright's Ferry lies on the east bank of the Susquehanna, about thirty-five miles from navigable water; and, from a few miles above, is navigable to the source of the river, at Lake Otsego, in the upper part of the State of New York. The Tyoga branch is navigable a very considerable distance up, and is but a few miles from the Genesee, which empties into Lake Ontario. The Juniata is navigable, and nearly connects with the Kiskemanettas, and that with the Ohio; besides the west branch connects with the Allegany River; forming a communication with the distant parts even of Kentucky, with very little land carriage. The great body of water in that river renders it navigable at all seasons of the year. With respect to the settlements in the neighborhood of Wright's Ferry, he would venture to assert it was as thickly inhabited as any part of the country in North America. As to the quality of the soil, it was inferior to none in the world, and though that was saying a good deal, it was not more than he believed a fact. In short, from all the information he had acquired, and that was not inconsiderable, he ventured to pronounce, that in point of soil, water, and the advantages of nature, there was no part of the country superior. And if honorable gentlemen were disposed to pay much attention to a dish of fish, he could assure them their table might be furnished with fine and good from the waters of the Susquehanna; perhaps not in such variety as in this city, but the deficiency was well made up in the abundance which liberal nature presented them of her various products. It was in the neighborhood of two large and populous towns, one of them the largest inland town in America. Added to all these advantages, it possessed that of centrality, perhaps, in a superior degree to any which could be proposed.

MR. LEE asked the gentleman what was the distance of Wright's Ferry from York Town, and whether that town, as it had once accom-

modated Congress, could do it again? If a permanent seat is established, why not go to it immediately? And why, let me ask, shall we go and fix upon the banks of a rapid river, when we can have a more healthful situation? And here he would inquire if the Codorus Creek, which runs through York Town into the Susquehanna, was, or could be made navigable?

MR. HARTLEY answered, that York Town was ten miles from the Ferry, that it contained about five hundred houses, besides a number of large and ornamental public buildings; that there was no doubt, but if Congress deemed it expedient to remove immediately there, they could be conveniently accommodated; but as gentlemen appeared to be inclined to fix the permanent residence on the east banks of the Susquehanna, he was very well satisfied it should be there.

MR. MADISON.—The gentleman who brought forward this motion was candid enough to tell us, that measures have been preconcerted out of doors, and that the point was determined; that more than half the territory of the United States, and nearly half its inhabitants have been disposed of, not only without their consent, but without their knowledge. After this, I hope the gentleman will extend his candor so much further, as to show that the general principles now to be established are applicable to their determination, in order that we may reconcile this fate to our own minds, and submit to it with some degree of complacency.

Though it was deemed improper to assign the general principles submitted by my colleague, in a preamble, yet I trust they will be unfolded, and explained in the course of argument, and their superiority over those just agreed to demonstrated. But waiving this inquiry for the present, I call upon gentlemen to show, how the principles agreed to apply to the subsequent resolution.

I hope, if the seat of Government is to be at or near the centre of wealth, population, and extent of territory, that gentlemen will show that the permanent seat there proposed is near the permanent centre of wealth, population and extent of territory, and the temporary seat, near the temporary centre. I think we may, with good reason, call upon gentlemen for an explanation on these points, in order that we may know the ground on which the great question is decided, and be able to assign to our constituents satisfactory reasons for what some of them may consider a sacrifice of their interest, and be instrumental in reconciling them, as far as possible, to their destiny.

MR. GOODHUE thought the question, stated by the gentleman from Virginia, was proper to be asked, and proper to be answered. The gentlemen from the eastward, as he said before, were in favor of the Susquehanna; that, in contemplating the geographical centre of territory, they found the banks of that river to be near the place. In point of population, they considered the Susquehanna was south of that centre; but,

from a spirit of conciliation, they were inclined to go there, although the principle and their own convenience would not lead them beyond the banks of the Delaware. He believed the centre of population would not vary considerably for ages yet to come, because he supposed it would constantly incline more toward the eastern, and manufacturing States, than toward the Southern, and agricultural ones.

MR. JACKSON.—I was originally opposed to the question coming forward, and am so still. I thought the subject ought not to be touched till the States, who have not yet acceded to the Union, might have an opportunity of giving their voice. I agree with the gentleman from Virginia. I am sorry that the people should learn that this matter has been precipitated; that they should learn, that the members from New England and New York had fixed on a seat of Government for the United States. This is not proper language to go out to freemen. Jealousies have already gone abroad. This language will blow the coals of sedition, and endanger the Union. I would ask, if the other members of the Union are not also to be consulted? Are the eastern members to dictate in this business, and fix the seat of Government of the United States? Why not also fix the principles of Government? Why not come forward, and demand of us the power of Legislation, and say, give us up your privileges, and we will govern you? If one part has the power to fix the seat of Government, they may as well take the Government from the other. This looks like aristocracy: not the united, but the partial voice of America is to decide. How can gentlemen answer for this, who call themselves representatives, on the broad basis of national interest?

I deny the fact of the territorial centrality of the place proposed. From New York, to the nearest part of the province of Maine, it is two hundred and fifty miles; and from New York, to the nearest part of the upper district of Georgia, from which my colleague, General Matthews, comes, is eleven hundred miles; and from the proposed place on the Susquehanna, it is four hundred miles to the nearest part of Maine, and nine hundred to the nearest part of that district; the proportion is more than two to one. But the gentlemen should have an eye to the population of Georgia; one of the finest countries in the world cannot but rapidly extend her population: nothing but her being harassed by the inroads of savages has checked her amazing increase, which must, under the auspices of peace and safety, people her western regions. Georgia will soon be as populous as any State in the Union. Calculations ought not to be made on its present situation.

North Carolina is not yet in the Union, and perhaps the place may give umbrage to her, which ought, at this moment, to be cautiously avoided. I should, therefore, think it most advisable to postpone the decision for this session at least. But, if we are to decide, I own, I think the Potomac a better situation than the

Susquehanna, and I hope it will be selected for that purpose.

MR. GOODHUE.—If gentlemen examine this subject with candor, they will find that the banks of the Susquehanna are as near the geographical centre as can be fixed upon. It is from the extreme of the Province of Maine about seven hundred and sixty miles; to Savannah, in Georgia, about seven hundred and sixty; and about seven hundred and thirty, or seven hundred and forty, from Kentucky; so that it is rather south of the centre of territory.

MR. LAWRENCE.—When this subject was under discussion some time since, it appeared to be the wish of gentlemen from the Eastward, and of the members from this State, that the question should not now be decided. They urged several reasons why it would be improper. I thought those reasons weighty, and was for postponing the consideration till our next meeting. But it was answered, that the business was important; that the citizens of the United States were uneasy and anxious; that as factions did not now exist, it was the proper time to decide the question. What was the representation to do? Was it not necessary for them to consult, and fix upon a proper place?

They are, in a degree, disinterested, because they have no expectation that the seat of Government will be fixed in any of the Eastern States. On the other hand, there is a well-grounded expectation, that it will be fixed either in Virginia, Maryland, Pennsylvania, or Jersey. We are called on to determine a question in which we conceive ourselves unbiased, and shall decide it on those principles that will reflect honor on the House. I trust it will be found that we have fixed on those principles, and that this resolution will be confirmed by Congress. We do not decide for the Union, nor for the Southern States, we decide for ourselves; and if our reasons are substantial, I trust that gentlemen will meet us in the determination.

There are several principles which have been agreed to in the general resolution; and I believe it will be shown, with exactness, that the place proposed will come within these principles. The first respects population. Is the House to consider the present, or the expected population? The resolution has a determinate meaning; it speaks of the population at the present period; and to calculate on this principle no gentleman can say is unjust. The representation in this House is itself a demonstration of it. The population of this country may be pretty safely determined by the proportion of representatives in this House; for it is established on this ground. I therefore believe, that the principle of population inclines to this place, in preference to a more southern situation.

But, in taking the principle of territory, are the House to calculate on the uninhabited wilderness? Shall they take the Lake of the Woods on one side, and the Missouri on the

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

other, and find a geographical centre? If so, to what an extent must they go? The inhabited and populated part of the country ought chiefly to be considered. If St. Croix is taken as the eastern limit, and St. Mary as the southern, the centre of the line will be found to fall pretty near the Susquehanna.

Another important consideration is, that this centre is on navigable water, sufficiently removed from the Atlantic coast, and from access by sea, so as to ensure security. With respect to the Western country, its situation is convenient and favorable, having a communication by land and water practicable and easy, more practicable, perhaps, than any other route. But another principle shall be attended to. It has been hinted, that this ought not to govern; but I think it of some importance. Gentlemen should look to those parts of the country where the greatest population is, the commercial and opulent cities, and see where is the substantial wealth, the strength of the Union; means by which the United States are to be protected, and the sources from which the Government is to draw its principal supports; it will be found that the seat of these will be the Northern and Eastern States.

Had the Eastern members consulted their own interests, they would have chosen the banks of the Delaware for the seat of Government; but they knew it would not be deciding on those generous principles which might be expected; they likewise knew that there was one State, not yet in the Union, to which such a measure would give disgust.

MR. SEDGWICK.—I beg leave to ask, if there really is any impropriety in gentlemen's consulting together, who have an uniformity of interest, upon a question which has been said to be of such infinite importance? My colleague has barely stated that such a consultation has taken place, and that, in consequence of it, men's minds have been induced to run in a current. Is there any thing wrong in this? Let those, then, who are determined not to consult, nor have any communication on such a subject, decide for themselves. I should think myself lost to that regard I owe to my country, and to my immediate constituents in particular, should I abstract myself from the contemplation of the benefits that would flow from knowing the feelings and sentiments of those with whom I am to act. Instead of being an evidence to that aristocratic spirit which has been mentioned, it is only a proof that men, attentive to their business, had preferred that way, which every honest man had in view. I have contemplated the subject with great anxiety, and though I cannot declare, that my local situation has had no influence on my mind, yet I will say I endeavored to prevent its having any. I believe that the true interests of the country will be best answered by taking a position eastward and northward of the Susquehanna.

The Delaware is one extreme, the Potomac

another; but when I reflect how anxious some gentlemen are for the one, and some for the other, I am willing to accommodate both parties, by advancing to a middle ground, to which I hope the public mind will be reconciled. I was also influenced in fixing this opinion, by the sentiment of the celebrated Montesquieu. He had laid it down, that in a country partaking of northern and southern interests, of a poor and productive soil, the centre and the influence of Government ought to incline to that part where the former circumstances prevailed; because necessity stimulates to industry, produces good habits, and a surplus of labor; because such parts are the nurseries of soldiers and sailors, and the sources of that energy which is the best security of the Government.

The Susquehanna is, in my opinion, southwest of the centre of wealth, population, and resources of every kind. I would beg leave, gentlemen, to suggest another idea. In my view, on the principles of population, the Susquehanna is far beyond the centre; for I do not think it just, on this subject, to take the constitutional computation. Will any gentlemen pretend, that men, who are merely the subject of property or wealth, should be taken into the estimate; that the slaves of the country, men who have no rights to protect, (being deprived of them all,) should be taken into view, in determining the centre of Government? If they were considered, gentlemen might as well estimate the black cattle of New England.

I would ask, if it is of no importance to take a position in which the credit of the Government may procure those supplies that its necessities might require? Will the strength and riches of the country be to the north or to the south of the Susquehanna? Certainly to the north.

It is the opinion of all the Eastern States, that the climate of the Potomac is not only unhealthy, but destructive to northern constitutions. It is of importance to attend to this, for whether it be true or false, such is the public prepossessions. Vast numbers of Eastern adventurers have gone to the Southern States, and all have found their graves there; they have met destruction as soon as they arrived. These accounts have been spread, and filled the Northern people with apprehension.

With regard to the temporary residence, I at first had very little concern where it should be; but, I believe, if Government should take a temporary stand, so central as Philadelphia, the accommodations of that State would be so seducing, and the interest of that powerful State so strong, that it would be more difficult ever to remove Congress from it, than it would be from a place which is acknowledged to be improper for their permanent seat.

MR. VINING.—Although I must acknowledge myself a party to the bargain, yet I had no share in making it. It is to me an unexpected bargain. Though the interest of the State which I have the honor to represent is involved in it,

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 3, 1789.]

I am yet to learn of the committee, whether Congress are to tickle the trout on the stream of the Codorus, to build their sumptuous palaces on the banks of the Potomac, or to admire commerce with her expanded wings, on the waters of the Delaware. I have, on this occasion, educated my mind to impartiality, and have endeavored to chastise its prejudices.

I confess to the House, and to the world, that, viewing this subject, with all its circumstances, I am in favor of the Potomac. I wish the seat of Government to be fixed there; because I think the interest, the honor, and the greatness of this country require it. I look on it as the centre from which those streams are to flow that are to animate and invigorate the body politic. From thence, it appears to me, the rays of Government will most naturally diverge to the extremities of the Union. I declare, that I look on the Western Territory in an awful and striking point of view. To that region the unpolished sons of earth are flowing from all quarters. Men, to whom the protection of the laws, and the controlling force of the Government, are equally necessary; from this great consideration, I conclude that the banks of the Potomac are the proper station.

With respect to the temporary residence, the accommodations which have been mentioned operate as reasons against New York. It is, indeed, but too agreeable; its allurements are too dangerous; when I look round, I see such handsome arguments addressed to my feelings, that my understanding dreads their impression, and I feel at a loss to determine on a central temporary residence; but the inducement to remain at New York, arising from these considerations, do not, perhaps, apply with any force, to detain a deliberative and serious Legislative body. They, perhaps, tend to repel them from such a centre, as incompatible with the circumspection necessary for them to pursue.

Mr. SENEY mentioned Peach Bottom, on the Susquehanna, about fifteen miles above tide-water, as the proper place.

Mr. GOODHUE did not wish the particular spot pointed out, because some inconvenience would result from such a measure; however, he was free to declare, that his own idea was in favor of a situation near Wright's Ferry.

Mr. HEISTER moved to insert Harrisburg in the resolution. He conceived this spot to be more eligible than any yet mentioned; from hence there was an uninterrupted navigation to the sources of the river, and through this place runs the great Western road leading to Fort Pitt, and the Western Territory. A water communication can be effected at small expense with Philadelphia. The waters of the Swetara, a branch of the Susquehanna, about eight miles below Harrisburg, runs to the north-east, and are navigable fifteen miles from thence to the Tulpehocken, a branch of the Schuylkill, a canal may be cut across, of about a mile and a half, the ground has been actually surveyed, and

found practicable; this will unite the Susquehanna and Delaware, and open a passage for the produce of an immense tract of country. It is but little further from Philadelphia than is Wright's Ferry; and, on many accounts, he thought it a preferable situation for the permanent seat of Government.

Mr. SEDGWICK wished the resolution might be adopted as it stood, without alteration.

Mr. FITZSIMONS hoped the committee would not now determine on the particular spot, as it might be attended with some inconveniences.

Mr. HARTLEY asked his colleague (Mr. HEISTER) if he could fix upon any spot near Harris's ferry, fit for the emporium of America. The narrow strip of land between the Susquehanna and Paxton creek was certainly inadequate.

Mr. PAGE wished the committee to rise, in order to give the gentlemen an opportunity of making up their minds as to the particular spot. If they agreed in this, as they had done with respect to the other matter they had brought forward, they would save the time of the committee; in the interim, the House might return to the consideration of the subjects they had before them, and which were not yet settled, by an accommodation either in or out of the House.

Mr. MADISON.—I hope the committee will not rise for the purpose mentioned by my colleague; but that they do it in order to give gentlemen time to consider the facts that have been brought into view, and with which it will be necessary to contrast other facts, yet to be mentioned, by those who wish to bring forward all the truths relative to the great question now under consideration. I hope there is no desire among the gentlemen who have made up their minds on this subject, a subject admitting as great a variety of considerations as any subject that has or can come before us, to bring it to a decision in a few hours after it has been disclosed. This would be so different from their usual candor, that I cannot suspect any serious opposition will be made to the rising of the committee.

Mr. AMES flattered himself the committee would not rise, as there could be no doubt but gentlemen were prepared to decide the question; it had been brought into view a considerable time since, and the gentleman who now wished for delay, had been pressing to have it determined. It was urged, that the public anxiously expected the measure; and though many wished it suspended, yet the major voice was in favor of expedition. He conceived that all the facts necessary to be known were within the reach of the committee, and that it was not necessary to postpone, in order to introduce any evidence to establish them. He apprehended nothing was intended by the rising of the committee but delay, and then the subject would come forward again, with all the unfortunate circumstances of local attachments. He hoped, as the committee had proceeded so far

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

as to adopt the general principles, they would go on, and agree to the subsequent resolution which was proposed by his colleague.

Mr. MADISON meant to pay due attention to every argument that could be urged on this important question. Facts had been asserted, the impressions of which he wished to be erased, if they were not well founded. It has been said, that the communication with the Western Territory, by the Susquehanna, is more convenient than by the Potomac. I apprehend this is not the case; and the propriety of our decision will depend, in a great measure, on the superior advantages of one of these two streams. It is agreed, on all hands, that we ought to have some regard to the convenience of the Atlantic navigation. Now, to embrace this object, a position must be taken on some navigable river; to favor the communication with the Western Territory, its arms ought likewise to extend themselves towards that region. I did not suppose it would have been necessary to bring forward charts and maps, as has been done by others, to show the committee the comparative situation of those rivers. I flattered myself it was sufficiently understood, to enable us to decide the question of superiority; but I am now inclined to believe, that gentlemen have embraced an error, and I hope they are not determined to vote under improper impressions. I venture to pledge myself for the demonstration, that the communication with the Western Territory, by the Potomac, is more certain and convenient than the other. And if the question is as important as it is admitted to be, gentlemen will not shut their ears to information; they will not precipitate the decision; or if they regard the satisfaction of our constituents, they will allow them to be informed of all the facts and arguments that lead to the decision of a question in which the general and particular interests of all parts of the Union are involved.

Mr. STONE found gentlemen had determined on a step that was not generally liked; he wished, therefore, the committee to rise, and give all of them an opportunity of trying to mend the bargain that had been made; perhaps they might find, upon reflection, that they ought to decide the question on more national principles than they seemed yet to be governed by.

Mr. SENEY could not say how far the motion was agreeable to every part of America; but he believed it would be acceptable to a very considerable part of the State he had the honor to represent.

Mr. SUMTER was in favor of the committee's rising, in order to give gentlemen time to ascertain the facts necessary to guide them to a decision. There was one impropriety which struck him forcibly; the resolution adopted as a principle that the seat of Government ought to be in a convenient place for the navigation of the Atlantic ocean. But the situation mentioned in the resolution under consideration had no communication whatever with the At-

lantic navigation. It had been said, that the Susquehanna afforded the most convenient communication with the Western Territory. He believed the Hudson possessed superior advantages; it connected with the country about the Lakes and the Ohio. From New York to Albany was navigable; from thence to Schenectady, there was a short portage; after ascending Schenectady, there was a short portage of half a mile to the Mohawk; from thence, another short portage to Wood-Creek, and thence into Lake Ontario, which connects with Lake Erie; and from thence are portages to the Wabash, Miami, Muskingum or Alleghany, all falling into the Ohio. But the Potomac possessed advantages superior to these; and was, both on account of communicating with the Atlantic and Western Territory, much to be preferred to the Susquehanna. He assured gentlemen that he was unbiased in giving a preference to the Potomac; because, if he studied his own convenience, he should consider New York as more eligible than either. It accommodated the Atlantic navigation in a superior manner, and had its pretensions to a connexion with the Western Waters, as he had already shown. He hoped, however, that the subject would be debated with candor and good temper, and decided in the way most likely to promote the general interests and harmony of the Union.

Mr. SHERMAN was against taking up the subject so soon; but since it had been determined against him, gentlemen, he presumed, had endeavored to make up their minds, he had turned his attention to it, and was now prepared to decide.

Mr. CLYMER knew the advantages possessed by the Susquehanna in communicating with the Western Country, they were mentioned by his colleague; but, with the additional circumstance that the Juniata branch afforded a convenient navigation to a road lately laid out by the State of Pennsylvania, which connected with the Kiskaminetas, from whence was a short voyage down the Allegany, and shorter still down that to the Ohio, at Pittsburg. He questioned much if the navigation by the Potomac was so convenient.

Mr. STONE did not mean to govern his vote on this occasion by what was said to be the sense of the citizens of Maryland; because they were, he apprehended, divided in opinion. One part or the other would be particularly benefited, as the seat of Government should be fixed either on the Susquehanna or Potomac, because those rivers watered its territory. Perhaps the majority of the present inhabitants would prefer the Susquehanna; but as their settlements extended westward, and the population increased, the majority would be favored by the Potomac.

Mr. SENEY did not mean to determine this question on the principle of benefiting, exclusively, the citizens of Maryland; he considered himself as a Representative of the Union, and should decide on the principle of general convenience.

Mr. TUCKER hoped the committee would rise, in order to give gentlemen time to consider the subject maturely, and to prepare themselves to come forward and discuss, fairly and fully, the advantages and disadvantages of the rival places. He could not believe they meant to decide a question of this importance on the superficial discussion which had taken place.

Mr. MADISON hoped that gentlemen did not mean to press the decision after what had been said. He assured them, that he was led to answer some of the observations that had been made, which he was not, at this moment, prepared to do; but, if he was, could gentlemen expect he would enter upon it at this late hour, and when the patience of the committee was exhausted? If he were to do so, he appealed to their candor to say, whether it was likely he should have a patient hearing. The hour of adjournment was so nearly arrived, that it allowed no time for a reply. He called upon them to exercise the candor they were wont to do on inferior subjects, and he pledged himself to come forward to discuss the subject, and answer gentlemen at a future day, even on the next day. He did not know what the event might be; but he thought it would be a criterion by which an opinion might be formed of the accommodating spirit of the House.

The question, on the committee's rising, was now put, and it passed in the negative; for it 23, against it 27.

Mr. STONE.—We are called upon, sir, to determine a question that has not been introduced to our notice more than two hours and a half; a question too, as admitted on both sides, of the highest importance to the interests and harmony of the Union. I cannot help thinking it a hardship to be compelled, so abruptly to a decision; but since it must be the case, I shall take the liberty of suggesting a few of my thoughts, in order to justify the vote I mean to give.

There are a variety of considerations and doubts in my mind, respecting the two rivers that have been mentioned. These doubts are increased when a particular place is named upon one of them; but had gentlemen told us, that they had settled this point also, it might have precluded any sort of debate whatever; because when an agreement had taken place, not only as to the banks of the Susquehanna, but as to the favored spot on those banks, we should not have entertained a single hope that we could have changed the position. But, as gentlemen differ among themselves on this point, perhaps they will permit us to participate with them in selecting the place most likely to give general satisfaction. But how can they suppose we are prepared on this head, without a general consideration of all the places which may offer themselves along the east bank of the river.

I am not apprised, sir, of the extent of this continent certainly, because I never calculated it by figures, or measured it on the map; but if there is the smallest degree of accuracy in the

draft that has been handed about, no man, who takes a view of it, in my opinion, will doubt a single moment, whether the Susquehanna is the river, which nearly equally divides the territory of the United States, in its extent north and south, that separates, in equal parts, the country east and west. The eastern part, I take it, is little, if any thing, more than half as large as what lies west. We observe that the course of the main branch tends more toward the Atlantic ocean, than it does toward the Western Territory; but even its western inclination goes only toward the lakes Erie and Ontario, through the middle of which runs the boundary line of the United States. How can this, then, be supposed a direct or convenient communication with that part of the country which is usually termed, and is in fact, the Western Territory?

Mr. STONE stopped here, in his argument, and said, he would wait till gentlemen were inclined to give him a hearing. He hardly expected, however, that his observations were agreeable to them; but they must excuse him, as they had forced him to rise, at this time, by their precipitancy.

After waiting some time, till order was restored, he proceeded.

In fixing the permanent residence, we ought not only to have in view the immediate importance of the States, but also what is likely to be their weight at a future day; not that we should consider a visionary importance, or chimerical expectation, but such a one as can be demonstrated with as much certainty as effects follow their causes. I apprehend the increase of population to the eastward is merely conditional; there is nothing to invite people to settle in the northern parts of this continent, in preference to the southern; even if they were settled there, every principle which encourages population would operate to induce them to emigrate to the southern and western parts. We know the northern climate is severe, the winters long, and summers short, and that the soil is less fertile. Were we not assuredly acquainted that this was the case on the continent of America, we should be led to the same conclusion, by reasoning from our knowledge of the other parts of the Globe. Men multiply in proportion to the means of support, and this is more abundant in a mild than a severe climate. Hence, I infer, that the climate, and means of subsistence, will ever operate as a stimulus to promote the population of the Southern, in preference to the Northern States. This doctrine is daily exemplified. If we advert to the situation of that part of the western country, called Kentucky, and compare its increase of population since the war, with any part of the eastern States, we shall find men multiplied there beyond any thing known in America; and if we consider its natural advantages, we shall conclude it will be an important part of the Union. The river which has been mentioned by the southern gentlemen is, as far as I am acquainted, extremely well calculated to furnish Gov-

SEPTEMBER 3, 1789.]

Permanent Seat of Government.

[H. OF R.]

ernment with the key of that country; and a river, I believe, richer in its exports than any I have contemplated on the face of the earth.

A call was now made, to order, and Mr. STONE sat down. A desultory conversation took place on the point of order. It was contended, that the question was on the insertion of Harrisburg, in the proposition offered by Mr. GOODRUE; whereas Mr. STONE was speaking to the main question.

MESSRS. CARROLL, LEE, and MADISON insisted, that Mr. STONE was in order, inasmuch as Mr. HEISTER's motion necessarily involved the main question, and was inseparable from it.

But it was decided by the Chair to be out of order; whereupon the question was taken, without further debate, on inserting Harrisburg, and it was determined in the negative.

The main question being now before the committee,

Mr. STONE proceeded. I feel myself unhappy to be obliged to address gentlemen, who are not disposed to attend to any thing I may say; but as gentlemen have chosen this time for discussing the subject, they will not think it improper in me to persist in detailing my ideas. When I was interrupted by the call to order, I was about to show the importance of the Potomac to the United States. Its waters afford a practical, safe, and short communication with the Ohio and Mississippi, beyond comparison preferable to the Susquehanna. If it is intended that the people settled upon those great rivers should communicate with the General Government, after ascending the former they must proceed a vast distance northward, up the Allegany, against a rapid stream, before they can reach the Susquehanna. I am inclined to believe a land-carriage would be better than such a laborious round-about water communication. Now, the Potomac, as I am informed, connects with the Youghogany, a river less rapid than the Allegany, and is itself communicable with the Atlantic. In this case, the Potomac will be the highway for such vast quantities of wealth as to give every superiority; and, however we may determine at this day, it will not be long before the seat of Government must be carried thither. The vast population that is extending itself through the western country requires that the Government should take a position favorable to its convenience; because new settlements at a vast distance from the old are more exposed to temptation than others; but, in the present case, it is proper for us to guard against the operation of a foreign country, which seems to be forming settlements near our frontiers to rival ours. It may be the more necessary, inasmuch as we ought to keep the boundary line distinct between the Spaniards and Savages, as I fear, do what we will, we run the greatest risk of entering into a quarrel with them; for, it is well known, that emigrants, in forming new settlements, are not much concerned about an ascertainment of jurisdiction; they are generally bold, enterprising spirits, who feel some aver-

sion to strict government; it is therefore necessary that the Government should approach toward them, and be placed in such situation as would give it the greatest possible influence over them. Beside their contiguity to a rival nation, they are independent in their condition; they want hardly any thing this country can give; their soil is rich and fertile; their exports will furnish them with every foreign article from the southward which they can require. Their interests are more strongly connected with the Southern States than the Southern States are with the Eastern. The advantages of this Government are felt, in a peculiar manner, by the mercantile and commercial States; the agricultural States have not the same strong reasons for maintaining the Union. Hence we may apprehend that the Western Country may be inclined, as it advances its importance, to drop off. The Susquehanna is no bond by which to hold them, its direction is more northern than western. Upon the whole, I am inclined to believe that it would not give general satisfaction at the present day; and the inequality would daily grow more striking, until we should be compelled to remove again to where there was a probability of finding a centre of territory as well as population. I have thrown out these ideas in a crude manner, but gentlemen have forced me to it by their urgency to take the question; I could wish to be allowed time for further discussion, and I believe it would be no ill sacrifice of a day, if we were to put off the determination till to-morrow.

Mr. LEE observed, that since gentlemen would not admit of a moment's delay; since they seemed to declare, that they had settled the matter without giving an opportunity for full discussion; since the House were hurried to a decision on a point that involved the welfare of the community, duty to his country, duty to the better half of the territory of the United States, called on him to come forward with another proposition.

He then moved to strike out the words "east bank of the Susquehanna," and to insert a clause to this effect: that, whereas the banks of the Potomac united all the aforesaid advantages, with fertility of soil, salubrity of climate, &c. Resolved, That the permanent seat of Government ought to be fixed somewhere on the banks of the said river.

He flattered himself that these two rival places would be considered with an attention that would do honor to the House; that their several advantages would be fully compared, and that such a decision would result as would be for the lasting benefit of the United States.

He then stated at large the comparative advantages of the Potomac; its great and increasing improvements; the extent of its navigation; its direct communication with the Western Country, and its easy communication with the Eastern and Southern States.

The House, he said, were now to determine whether regard was to be had to the people of

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 3, 1789.]

the Western Territory, to the greater portion of the territory of the Union; in point of climate, it was extremely salubrious; in fertility of soil, it was exceeded by no country on earth. Thither would emigrants flock from all quarters.

He asked whether this Government was intended for a temporary or a lasting one? Whether it was to be a fleeting vision, or to continue for ages? He hoped the result would proclaim that the Government was calculated for perpetuity; and that the common interest of the country had been consulted. If that was done, the Government would be removed to the Potomac; if not, we should stop short of it; and what would be the consequence? He said he was averse to sound alarms, or introduce terrors into the House; but if they were well founded, he thought it his duty. It was well known with what difficulty the constitution was adopted by the State of Virginia. It was then said, that there would be confederacies of the States east of Pennsylvania, which would destroy the Southern States; that they would unite their councils in discussing questions relative to their particular interests, and the Southern States would be disregarded. To these suspicions, it was answered, no! It was contended that the magnanimous policy, arising from mutual interests and common dangers would unite all the States, and make them pursue objects of general good. But if it should be found that there were such confederacies as were predicted, that the Northern States did consult their partial interests, and form combinations to support them, without regarding their Southern brethren, they would be alarmed, and the faith of all south of the Potomac would be shaken. It would be shown to them, that what had been predicted by the enemies to the constitution had come to pass; that the Northern States had not waited till the Government was organized before they sacrificed the Southern people to their own interests.

Let the seat of Government be fixed where it may, Virginia had not solicited Congress to place the seat of Government in her State. She only contended, that the interests of the Southern and Western country should be consulted; and he declared that these interests would be sacrificed, if Congress fixed upon any place but the Potomac. The greater part of Virginia was distant from that river. Many parts were not nearer than New Jersey. She wished not to have the seat on the Potomac but for the general good; it was not for the benefit of that State, but for the benefit of the Union.

Mr. LAWRENCE said, it was improper and unnecessary to hold out terrors to the fancy of members. The true way to convince them, was to address their understandings. He was certain there was no dangerous confederacy which the gentleman had talked of; and believed the conduct of the Northern States would bear the strictest scrutiny; that, if probed to the bottom, it would be found fair and can-

did. He remembered in the debate upon the Tonnage bill, a gentleman from Virginia observed, that could the moderate and equal policy of that day's proceedings have been foreseen in the convention of Virginia, many objections that were there produced against the constitution would have been thereby obviated.

He trusted, that, in conducting the business before them, gentlemen could find no cause, eventually, to entertain different sentiments from what he then delivered.

Mr. MADISON.—I acknowledge, that, on a former day, I made the observation alluded to, with singular complacency. I said, I had found a moderation and liberality prevailing here, which I sincerely believed, if foreseen in the convention of Virginia, would have obviated a very powerful objection to the adoption of the Federal constitution. But, give me leave now to say, that if a Prophet had risen in that body, and brought the declarations and proceedings of this day into view, that I as firmly believe Virginia might not have been a part of the Union at this moment.

A motion was now made for the committee to rise, and several gentlemen said, they wished it to prevail, in order that an opportunity might be afforded for a fuller discussion.

Mr. SEDGWICK hoped the committee would not rise. Will it be contended, that the majority shall not govern; and shall the minority, because they cannot carry their points, accuse the House of want of candor? Are we to be told, that an important State would not have joined the Union, had they known what would have been the proceedings of this House. Gentlemen have brought forward this business themselves; they have precipitated the House into it. We prayed, we supplicated for time; and now gentlemen, from some causes not explained, wish to postpone the matter, in order to have time to deliberate. He believed that a deliberation of six weeks would not alter a single opinion, and therefore it was not proper to consume the public time uselessly.

Mr. MADISON.—When I alluded to the proceedings of this day, I contemplated the manner in which the business was conducted; and though I acknowledge that a majority ought to govern, yet they have no authority to deprive the minority of a constitutional right; they have no authority to debar us the right of free debate. An important and interesting question being under consideration, we ought to have time allowed for its discussion. Facts have been stated on one side, and members ought to be indulged on the other with an opportunity of collecting and ascertaining other facts. We have a right to bring forward all the arguments which we think can, and ought to have an influence on the decision. It is unusual, on a partial discussion, even of questions of inferior magnitude, to decide in the course of a single day. How, then, can gentlemen reconcile their conduct of this day to the liberal: they have hitherto shown? This manner

SEPTEMBER 4, 1789.]

Permanent Seat of Government.

[H. OF R.]

of proceeding would mark a genius in this body which will contradict the expectations of its warmest friends. I hope nothing will be fixed by a hasty determination. I said before, and repeat it again, that I wish to make some observations on what has been advanced, for which at present there is not time. But, if there was, I do not wish to address a determined and silent majority. No, sir, if this be the temper of to-day, let me appeal to a more favorable temper to-morrow. If gentlemen refuse this appeal, I must submit; but I will, to the last moment, assert my right, and remonstrate against a precipitate decision.

Mr. AMES said he remembered, when this subject came before the House the other day, when we solicited for delay, it was observed, that the necessities of the Union required an immediate decision; that it would take up but little time; that the proper centre might be easily ascertained; that it would depend upon geographical calculation, and that little discussion would be necessary. Now, when circumstances appear to be changed, when the calculation is made, when the House are ready to vote, gentlemen come forward and pretend that they want time. He hoped the question would be now decided. While he was up, he would observe that he did not entertain a doubt of the patriotism and good intentions of the gentlemen from Virginia. He believed, however, that their judgments were influenced by their wishes, for they seemed to be engaged with a degree of eagerness, which none else appeared to feel; the very language of their motion declares this. They seem to think the banks of the Potomac a paradise, and that river an Euphrates. He had been told it was a fine spot, and he sincerely wished those blessings might ever reside there.

Mr. BURKE observed, that the Northern States had had a fortnight to manage this matter, and would not now allow the Southern States a day. What was the conduct of gentlemen? A league has been formed between the Northern States and Pennsylvania.

Mr. FITZSIMONS interrupted Mr. BURKE, and denied the assertion, as it respected Pennsylvania.

Mr. BURKE then proceeded, and said that the Eastern members had combined with some other States, he could not positively say which, but the first information that was furnished was given this morning, every gentleman had heard it as well as himself, but that had nothing to do with his object; he wanted time to get information; and called on gentlemen, for the honor of the House, to comply with this request.

Mr. WADSWORTH said, he rejoiced to hear the gentlemen calling for time, and crying out fair play. He remembered when he entreated the gentleman who spoke last, and others, not to precipitate themselves into this situation, his entreaties had been of no avail. Knowing that the pride of a majority was one of those things

to which he had to submit, he, with all the New England members, solicited for time. With respect to bargaining, he believed that it would reflect no honor on either side of the House. He said he must either give his vote now, or submit to more bargaining. He was willing that the whole business of bargaining should be exposed; he would not excuse himself; he did not dare to go to the Potomac. He feared that the whole of New England would consider the Union as destroyed. Since the matter had been so prematurely brought on, since members had been forced, and, as it were, dragged by the throat to this business, he hoped it was now finished.

The question was now put, on the rising of the committee, and carried: Whereupon the committee rose and reported progress, and then the House adjourned.

THURSDAY, Sept. 4.

SEAT OF GOVERNMENT.

The House again resolved itself into a committee of the whole, on the Resolution for establishing a permanent Seat of Government, Mr. BOUNDINOR in the Chair.

Mr. STONE wished to hear the sentiments of the gentleman who first brought forward this business: He expected to derive some advantage from that gentleman's knowledge of the country, which, he presumed, was pretty accurate, as it was derived from actual observation.

After waiting some time,

Mr. STONE repeated his request, under an apprehension that he had not the honor of being heard by the worthy gentleman.

Mr. GOODHUE rose and said, he had given his sentiments yesterday, but, if the gentleman desired it, he was ready to repeat them.

Mr. STONE said, he addressed his request to the gentleman from Pennsylvania.

Mr. SCOTT.—I understood the gentleman so, and I have no objection to giving my sentiments on the occasion. The resolution I laid on the table has been honored with the vote of a majority of the committee. It contains such principles as, I believe, ought to govern in the settlement of the grand question: They have declared, that they mean to be governed by these principles, and this is a declaration to the world that their hearts are good. What may follow in consequence of that resolution, cannot impeach the motive, it can only prove, that our heads are uninformed; an error of the head is pardonable, but an error of the heart is not easily forgiven.

Whether the spot which has been moved is the right spot or not, seems to be the matter under inquiry. I had prepared myself with documents, which I should have produced had they been needed, to prove, that the State I have the honor to represent involves, within its limits, the centre of wealth and population of the United States, taking the sea-coast for a guide; for all that has been said of the impor-

tance of the western country, has not prevailed on me to imagine, that all the vacant territory should be taken into view, the same as the settled and cultivated parts; my resolution had no other idea but that the Atlantic States should consent to go as near that territory as their convenience would allow. I am convinced that going further than would suit the Atlantic States would injure the western country itself.

The communication which the several rivers have with that country has been brought into view; and, from what I have heard, I am led to suppose, that the House would incline to fix upon one that furnished such a convenience. This disposition, if carried into execution, will, perhaps, do perfect justice to that country, and as much as the inhabitants can expect; the question, however, seems to lie between the Susquehanna and the Potomac. Taking the extent of the sea-coast line, as he mentioned before, and erecting a perpendicular at the middle, it would strike between those two rivers, at nearly equal distances, though rather nearer the Potomac than the Susquehanna. With these rivers I am tolerably acquainted; the latter communicates immediately with the northern lakes, but much of the country is a desert wilderness; the communication between the southern branch of the Tioga and a branch of the Allegany, the head waters of which approach very near each other, and this passes Fort Pitt, which we are to consider as the key to the western country. But, unfortunately, this route is four hundred miles against the stream; a distance too great to afford an easy intercourse with that country; a land communication would be preferable. The Potomac offers itself under the following circumstances: From the falls up the main river to Will's Creek, is about two hundred miles; from thence is a portage to Youghogany, down which you descend to the Monongahala, which meets the Allegany at Fort Pitt, and forms the great river Ohio. This is a direct communication between the Atlantic States and western country. So, on the return, you have but sixty miles against the stream up the Monongahala, and you have a short portage, from the Cheat River, to very good boatable water on the Potomac; but, to return by the way of the Susquehanna, you have four hundred miles up the Allegany to the portage across to the southern branch of the Tioga, and four hundred down that river, and the Susquehanna, before you come to the Atlantic navigation: hence I conclude, that there is no comparison between the two rivers. The Potomac will, no doubt, afford the most safe and convenient communication; but it does not follow that the seat of Congress should be on the banks of that river, because it may not be of general importance; but, if it was, I consider that the Susquehanna is a great and valuable river, it communicates with many millions of acres of land and water, the principal part of my native State; this, added to the circumstance of centrality, as it respects the wealth and population of America, deter-

mines me to give my vote in favor of it; but if I was to study the particular interest of that part of the State from which I come, perhaps I should more substantially benefit it by voting for the Potomac.

Mr. MADISON said, if this delay should not have produced any alteration in the sentiments of the gentlemen, it will at least soften that hard decision which seems to threaten the friends of the Potomac. He hoped that all would concur in the great principle on which they ought to conduct and decide this business; an equal attention to the rights of the community. No Government, he said, not even the most despotic, could, beyond a certain point, violate that idea of justice and equal right which prevailed in the mind of the community. In Republican Governments, justice and equality form the basis of the system; and perhaps the structure can rest on no other than the wisdom of man can devise. In a Federal Republic, give me leave to say, it is even more necessary and proper, that a sacred regard should be paid to these considerations. For beyond the sense of the community at large, which has its full agency in such a system, no such Government can act with safety. The Federal ingredient involves local distinctions, which not only produce local jealousies, but give, at the same time, a greater local capacity to support, and insist upon equitable demands. In a Confederacy of States, in which the people operate, in one respect as citizens, and in another as forming political communities, the local Governments will ever possess a keener sense and capacity, to take advantages of those powers, on which the protection of local rights depend. If these great rights be the basis of republics, and if there be a double necessity of attending to them in a Federal Republic, it is further to be considered, that there is no one right, of which the people can judge with more ease and certainty, and of which they will judge with more jealousy, than of the establishment of the permanent seat of Government; and I am persuaded, that however often this subject may be discussed in the representative body, or however the attention of the committee may be drawn to it, the observations I have made will be more and more verified. We see the operation of this sentiment fully exemplified in what has taken place in the several States. In every instance where the seat of Government has been placed in an uncentral position, we have seen the people struggling to place it where it ought to be. In some instances they have not yet succeeded, but I believe they will succeed in all. In many they have actually gained their point.

One of the first measures in the State of Virginia, after the commencement of the revolution, was the removal of the seat of Government from an uncentral position, to one which corresponds more with the sense of the State, and an equal regard to the general convenience. In North Carolina, we have seen the same principle operating, though in a different mode. In

SEPTEMBER 4, 1789.]

Permanent Seat of Government.

[H. OF R.]

South Carolina the same. In the State of Pennsylvania, powerful as the inducements are in favor of its capital, we have seen serious, and almost successful efforts already to translate it to a proper place. In the State of Delaware, where the Government was as little removed from the centre as it could be in any other State, we have seen the same spirit displaying itself. In the State of New York, the same thing has happened with some fluctuations, arising from occasional motives of convenience. In Massachusetts, the same effort has been made, and in all probability, when some temporary considerations cease, we shall find the same principle taking effect there also. It is not surprising, when we consider the nature of mankind, that this should be the case.

With respect, however, to the Federal Government, there is one consideration that shows, in a peculiar manner, the necessity and policy of paying a strict attention to this principle. One of the greatest objections which has been made by the opponents of the system, which has been allowed most weight by its friends, is the extent of the United States. It has been asserted by some, and almost feared by others, that within so great a space, no free Government can exist. I hope and trust, that the opinion is erroneous; but, at the same time, I acknowledge it to have a certain degree of force, and it is incumbent on those who wish well to the Union, to diminish this inconvenience as much as possible. The way to diminish it, is to place the Government in that spot which will be least removed from every part of the empire. Carry it to a remote position, and it will be equivalent to an extension of our limits; and if our limits are already extended so far as warrants, in any degree, the apprehension before mentioned, we ought to take care not to extend them further.

The truth is, in every point of view in which we can contemplate this subject, we shall perceive its high importance. It is important that every part of the community should have the power of sending, with equal facility, to the seat of Government such representatives to take care of their interests, as they are disposed to confide in. If you place the Government in an uncentral situation, the attendance of the members, and of all others who are to transact the public business, cannot be equally convenient. The members of the Union must be on an unequal footing. Thus you violate the principle of equality, where it ought most carefully to be ascertained, and wound the feelings of the component parts of the community, which can be least injured with impunity. If we consider the expense, that is an inconvenience not without its weight. In the compensations that have been lately voted, the centrality of our position has had a manifest influence. The more remote the Government is, the greater will be the necessity of making liberal compensations, and holding out powerful inducements, in order to obtain the services of fit characters, from

every part of the Union; and as you can make no distinction, you must give to those who make the fewest sacrifices the same as to those who make the most.

The seat of Government is of great importance, if you consider the diffusion of wealth that proceeds from this source. I presume that the expenditures which will take place, where the Government will be established by those who are immediately concerned in its administration, and by others who may resort to it, will not be less than half a million dollars a year. It is to be regretted that those who may be most convenient to the centre should enjoy this advantage to a higher degree than others; but the inequality is an evil imposed by necessity; we diminish it as we place the source from which those emanations of wealth are to proceed as near the centre as possible.

If we consider, sir, the effects of Legislative power on the aggregate community, we must feel equal inducements to look for the centre, in order to find the proper seat of Government. Those who are most adjacent to the seat of Legislation will always possess advantages over others. An earlier knowledge of the laws, a greater influence in enacting them, better opportunities for anticipating them, and a thousand other circumstances will give a superiority to those who are thus situated. If it were possible to promulge our laws, by some instantaneous operation, it would be of less consequence in that point of view where the Government might be placed; but if, on the contrary, time is necessary for this purpose, we ought, as far as possible, to put every part of the community on a level.

If we consider the influence of the Government in its Executive Department, there is no less reason to conclude that it ought to be placed in the centre of the Union. It ought to be in a situation to command information relative to every part of the Union, to watch every conjuncture, to seize every circumstance that can be improved. The Executive eye ought to be placed where it can best see the dangers which may threaten, and the Executive arm, whence it may be extended most effectually to the protection of every part. Perhaps it is peculiarly necessary, that, in looking for the position, we should keep our eye as much as possible towards our Western borders; for a long time dangers will be most apt to assail that quarter of the Union.

In the Judiciary Department, if it is not equally necessary, it is highly important that the Government should be equally accessible to all.

Why should the citizens of one quarter of the Union be subject to greater difficulties than others? Why should they be obliged to travel further, to carry their witnesses at a greater expense, and be more subject to all the inconveniences attending the administration of justice at a remote distance? In short, whether we consider the subject with regard to the Executive, the Legislative, or the Judicial De-

partments, we see the soundest reasons for fixing the Government in that place which may be the most permanent centre of territory and population.

With respect to the Western Territory, we are not to expect it, for it would be an affront to the understanding of our fellow-citizens on the Western waters, that they will be united with their Atlantic brethren on any other principle than that of equality and justice. He would venture to say, that it was essentially necessary, therefore, that we should deal out the blessings of Government with an impartial hand; and that, in placing the Government from which these blessings are to flow, we should retire from the Atlantic as far as is consistent, and approach towards that point which will best accommodate the Western country; in doing this, we shall still stop short of that geographical centre, whose circle would most commodiously embrace our ultramontane fellow-citizens. In his opinion, the desire manifested by them, on this subject, was as reasonable as possible; they do not expect that we should lose sight of a proper and easy communication with the Atlantic, and will acquiesce, with cheerfulness, in a position necessary for that purpose, though it would still leave them subject to peculiar inconveniences. From the Atlantic to the Mississippi, according to the best computation, the distance is not less than seven hundred and fifty miles; if we go to that part of the Potomac which is proposed, we carry the Government two hundred and fifty miles only west, it will still be five hundred miles from the Mississippi.

He was sure, that if justice required us to take any one position in preference to another, we had every inducement, both of interest and of prudence, to fix on the Potomac, as most satisfactory to our Western brethren. It is impossible to reflect a moment on the possible severance of that branch of the Union without seeing the mischiefs which such an event must create. The area of the United States, divided into two equal parts, will leave, perhaps, one half on the west side of the Alleghany mountains. From the fertility of the soil, the fineness of the climate, and every thing that can favor a growing population, we may suppose the settlement will go on with every degree of rapidity which our imagination can conceive. If the calculation be just, that we double in twenty-five years, we shall speedily behold an astonishing mass of people on the Western waters. Whether this great mass will form a permanent part of the confederacy, or whether it will be separated into an alien, a jealous and a hostile people, may depend on the system of measures that is shortly to be taken. The difference, he observed, between considering them in the light of fellow-citizens, bound to us by a common affection, obeying common laws, pursuing a common good, and considering them in the other light, presents one of the most interesting questions that can occupy an Ameri-

can mind. Instead of peace and friendship, we shall have rivalry and enmity; instead of being a great people, invulnerable on all sides, and without the necessity of those military establishments which other nations require, we shall be driven into the same expensive and dangerous means of defence. We shall be obliged to lay burthens on the people, to support establishments which, sooner or later, may prove fatal to their liberties. It is incumbent on us, if we wish to act the part of magnanimous legislators, or patriotic citizens, to consider well, when we are about to take a step of such vast importance, that it be directed by the views he had described; we must consider what is just, what is equal, and what is satisfactory.

It may be asked, why it was necessary to urge these principles, since they would not be denied? He apprehended, that, in general, there would be a disagreement as to the principles which ought to govern. But, at the same time, principles were so connected with facts, in the present case, that it was not more necessary to collect all the light than to fortify all the impressions that might be favorable to a just decision.

On a candid view of the two rivers, he flattered himself that the seat which would most correspond with the public interest would be found on the banks of the Potomac. It was proper that we should have some regard to the centre of territory; if that was to have weight, he begged leave to say, that there was no comparison between the two rivers. He defied any gentleman to cast his eye in the most cursory manner over a map and say that the Potomac is not much nearer this centre than any part of the Susquehanna. If we measure from the banks of the Potomac to the most eastern parts of the United States, it is less distant than to the most southern. If we measure this great area diagonally, the Potomac will have the advantage. If you draw a line perpendicularly to the direction of the Atlantic coast, we shall find that it will run more equally through the Potomac than through any part of the Union; or, if there be any difference between one side and the other, there will be a greater space on the southwest than on the northeast. All the maps of the United States show the truth of this. From the Atlantic coast to that line which separates the British possessions from the United States, the average distance is not more than one hundred and fifty miles. If you take the average breadth of the other great division of the United States, it will be found to be six, seven, and eight hundred miles.

From this view of the subject, which is not easy to describe by words, but which will strike every eye that looks on a map, I am sure that if the Potomac is not the geographical centre it is because the Susquehanna is less so.

He acknowledged that regard was also to be paid to the centre of population. But where shall we find this centre? He knew of no rule

SEPTEMBER 4, 1789.]

Permanent Seat of Government.

[H. OF R.]

by which to be governed, except the proportion among the representatives of the different States; and he believed, if that criterion was taken, the present centre of population would be found somewhere in Pennsylvania, and not far from the Susquehanna. He granted that the present centre of population is nearer the Susquehanna than the Potomac. But are we choosing a seat of Government for the present moment only? He presumed not; we must look forward to those probable changes that may soon take place. He appealed to the judgment of every gentleman, if they had not reason to suppose that these future changes in the population of this country would be particularly favorable to that part which lies south of the Potomac. On what do the measures and extent of population depend? They depend on the climate, on the soil, and the vacancy to be filled. We find that population, like money, seeks those places where it least abounds, and has always the same tendency to equalize itself. We see the people moving from the more crowded to the less crowded parts. The swarm does not come from the southern, but from the northern and eastern hives. This will continue to be the case, until every part of America receives its due share of population. If there be any event on which we may calculate with certainty, I take it that the centre of population will continually advance in a southwestern direction. It must then travel from the Susquehanna; if it is now found there, it may even extend beyond the Potomac. But the time would be long first, and as the Potomac is the great highway of communication between the Atlantic and the western country, attempts to remove the seat further south must be improbable. I have said that the communication with the Western Territory is more commodious through the Potomac than through the Susquehanna; I wish all the facts connected with this subject could have been more fully ascertained, and more fully stated; but if we consider the facts that have been offered by gentlemen who have spoken on the subject, we must conclude that the communication through the Potomac would be more facile and effectual than through any other channel. If we consider what was related by the gentleman from Pennsylvania, (Mr. SCOTT) whose judgment is the more to be relied on, as it is founded on his personal knowledge of that country—he tells you, that the communication by water, either to or from the western country is next to impracticable by the Susquehanna.

Mr. CLYMER begged to set the gentleman right; his colleague, if he understood him, had only related the communication by the northwestern branches, but there was a communication by the Juniata, a branch of the Susquehanna, about fifteen miles above Harrisburg, tending westerly, and navigable eighty miles, from whence to the Connemagh was a portage, with a road actually laid out of about forty miles, hence you descend the Kisskaminetas to

the Allegany, and from thence to Pittsburg is thirty miles.

Mr. SCOTT knew this communication pretty well, but we who live in that country never take it into consideration, as the waters are too small to afford a certainty of communication, but even here the portage was greater than between the Potomac and Youghogany.

Mr. CLYMER said, with respect to the navigation of the Juniata, that it was in evidence before the House of Assembly of Pennsylvania, when they were considering the means of uniting that navigation with the western waters, that produce to the amount of fourteen hundred bushels had been brought down it to Middletown.

Mr. MADISON proceeded and said, he wished every fact to be ascertained that could throw any light upon the subject. Taking the Susquehanna, as it was practicable for navigation, it would be found, that through that route of communication, Fort Pitt would be four or five hundred miles from the proposed seat on its banks, and that the distance by land was not less than two hundred and fifty miles; whereas, through the Potomac the distance from the proposed spot on its banks to Fort Pitt was not calculated at more than two hundred and fifty miles, and he believed the distance by land would be found not to exceed one hundred and sixty or one hundred and seventy miles.

Whether we measure the distance by land or water, then, the result is in favor of the Potomac. If we consider the progress already made in opening this great channel its title becomes still stronger. Let me add, that it has been found, on accurate research, that the waters communicating with the Ohio are not more than two or three miles distant from the sources of the Potomac. This is a fact of peculiar importance.

It has been said, that if Congress shall make choice of the Potomac greater discontents would arise than if they should prefer the Susquehanna. I know not the *data* from which this opinion is drawn. Who will have the greatest right to complain? Will it be those who might be gratified if the Government should be fixed on the Susquehanna? I believe not. The truth is, that if the place which is now short of the geographical centre be short also of the centre of population, as it will be in a reasonable time, we have reason to conclude that the southern inhabitants will feel themselves most aggrieved. I do not hesitate to declare, that if the seat of Government should be fixed on the Susquehanna, every part south of that river, and every part of the United States south of the Ohio, will conceive that the great principles of equal justice have been disregarded. If we are to consider the subject, in that point of view, I am certain it is most expedient that we should give the preference to the Potomac. This is not all; if you establish the Government on the Potomac, those who think themselves not equally dealt by, will find

the cause of their discontent continually subsiding, because the centre of population will be continually approaching the geographical centre. If, on the other hand, you fix the seat in a place which is perpetually uncentral with respect to territory, the centre of population will continually recede, and the cause of discontent continually increase.

The gentleman from Massachusetts yesterday raised great objections against the Potomac, because it was, as he supposed, subject to periodical maladies, from which the other river was free. I am not authorised, from personal experience, or very particular information, to draw a comparison between them; but there are some general facts that may serve to show, that if there is any difference it is more likely to be in favor of the Potomac than of the Susquehanna. The position contemplated on the banks of the former is considerably further from tide water than the place proposed on the latter. On this account, therefore, we have little reason to suppose that the Potomac is more unhealthy. If we regard their comparative situations, westwardly, the spot on the Potomac is almost as much further to the west, as it is distant from the proposed spot on the Susquehanna; and he well knew that, generally speaking, as we retire towards the western and upper country, we are generally removed from the causes of those diseases to which southern situations are exposed. As the two places are moreover in the same latitude, the objection advanced, with respect to that point, cannot apply to one more than the other. It is only their western or eastern position, their remoteness from, or their proximity to the lower country, and to fresh or stagnant waters, that can possibly affect the question. It is not because we advance so much to the south that we advance to the centre, it is because we go more to the west. I do not know that there is a difference of more than a degree and five or six minutes between the latitude of New York and the place proposed on the Potomac.

I will not at present go further into this argument. I flatter myself that the considerations already stated will have their proper weight; and if they should be controverted that we shall be able further to support and inculcate them.

Mr. AMES never intended that this question should be carried through the committee by the strength of a silent majority; he had confidence in the weight of the arguments to be urged in favor of the Susquehanna, and he was willing to put the decision of the question on that ground. He would now come forward, and give the reasons of his opinion, especially as gentlemen had entered fully into the reasons which guided their own to a different conclusion. He did not conceive it would be necessary for him, coming from the part of the United States from which he did, to disclaim the local views and narrow prejudices with which the subject teemed. He had feared, when the question was first brought forward, that the minds of gentle-

men would be highly fermented, indeed so much, that he almost despaired of coming to a proper decision, nor did he think these apprehensions were illusive, if he judged from what had already taken place. He had observed that some gentlemen, whose discernments were clear and who were generally guided by the straight line of rectitude, had been most surprisingly warped on the present occasion; he was fearful that their wishes had misled them from a due regard of the real object of their pursuit, viz. the public interest and convenience. He was sensible, that he himself was liable to some improper impressions; but he trusted he did not feel them in that degree which he thought he saw in others.

He was willing to be led by the great principles which other gentlemen had laid down as the rule of their decision; but he thought they would lead to a different conclusion from what had been drawn from them; he admitted that a central situation is to be taken, and in considering this centre, the centre of a sea-coast line ought to be regarded, because it is more conveniently accessible, has more wealth, and more people than an equal area of inland country. Being more liable to invasion, government should be near to protect it. It is the interest of the back country to have the Government near the sea, to inspect and encourage trade, by which their abundant produce will find an export. And lastly, he said the contingency of the separation of the Western country was a reason for preferring the sea-coast.

He proceeded next to say, there will not be any contest where this centre of the sea-coast line is to be found: it falls between the rivers Potomac and Susquehanna. It will be found that there are good reasons why we should rather move East than South.

If the sea-coast line is to be preferred it will follow that the back lands, west of the Ohio, which the gentleman from Virginia has so often taken into his calculations, will be excluded; they are not peopled; they do not affect the sea-coast line; and that line has already been voted to be the proper one by the committee. As it is true that the sea-coast has more wealth and more people than the inland country in proportion to the extent, it is equally true that the Eastern half of the sea-coast has more of both than the Southern. If we reckon Maryland, which will be as well accommodated by the Susquehanna as by the Potomac, we shall find the population of the Eastern part nearly two millions, and that of the Southern only one million, and the population of free inhabitants still less in favor of the latter.

But, sir, instead of seeking a centre geographically we should consider the centre of common convenience. The place is the proper one where the greatest number of persons will be best accommodated. I will endeavor to show that that will be on the Susquehanna. Is the zeal of gentlemen, who oppose this design, influenced by their despair of removing the seat

SEPTEMBER 4, 1789.]

Permanent Seat of Government.

[H. OF R.]

of Government afterwards? I believe the people of America will not complain of it. If fixed there, I think it will be found convenient and will remain there.

The Susquehanna is the centre of the common convenience. At this moment there is more wealth and more inhabitants East than South of it. But the future population of America is calculated, and it is pretended that the balance of population is receding from the East. Surely the present inhabitants may be allowed principally to consult, their own convenience. West of the Ohio is an almost unmeasurable wilderness; when it will be settled, or how it will be possible to govern it, is past calculation. Gentlemen will pardon me if I think it perfectly romantic to make this decision depend upon that circumstance. Probably it will be near a century before those people will be considerable; if we fix the national seat in the proper place now, it would give me no inquietude to know that a hundred years hence it may be liable to be removed; but, in fact, the principle which is assumed by the committee, and which I have attempted to justify, of taking the centre of the sea-coast line, will, even in the event of that vast tract being settled, furnish abundant reasons for its remaining on the Susquehanna. I will not recapitulate those reasons. We must take some principle to guide us; and though some inequalities will appear, yet let gentlemen remember, that in so vast a country great inconveniences will attend the communications of the people with Government, be the seat of it where it may; and by taking the centre of the sea-coast line there will be less than any other principle. It will be found best to accommodate the greatest number; or, in other words, to be the centre of common convenience: indeed, this is not denied to be true at this moment; but the case is said to be changing. On the one hand, I think it is Utopian to calculate upon the population of the United States a century hence; and, on the other hand, I admit that it is impolitic at least, perhaps unjust, to confine our attention to the present population; a quarter of a century may be a medium. Will gentlemen deny that trade and manufactures will accumulate people in the Eastern States, in proportion of five to three, compared with the Southern? The disproportion will, doubtless, continue to be much greater than I have calculated. It is actually greater at present; for the climate and negro slavery are acknowledged to be unfavorable to population: so that husbandry, as well as commerce and manufactures, will give more people in the Eastern than in the Southern States. The very circumstance that gentlemen found their reasonings upon is pretty strongly against their calculations. They tell us of the vast quantities of good land still unsettled in their States; that will produce a thin population; for the old lands will not be crowded so long as new ones are to be had.

So far, therefore, as we may be allowed to look forward, the eastern half, from this central

seat, will be far more populous than the other. In New England the settled parts are said to contain about forty-five to a square mile.

Much is said of the separation of the Western Country. At a remote period the junction of the British colonies with the Union might be taken into view.

The seat of Government on the Susquehanna will be nearly accessible by water to all the people on the sea-coast by the Delaware river on the one side, and Chesapeake bay on the other.

Let us next consider the inland navigation of this river. Pittsburg, on the Ohio, may be considered as the key of those waters, at least to the northward; it is a kind of common centre. Let us see how we shall approach it by the Susquehanna.

	<i>miles.</i>
From Havre de Grace, at the mouth of Susquehanna, and at the head of the Chesapeake to Wright's Ferry, is (and here the Federal Town probably will be)	40
To Harris's Ferry, - - - - -	20
To the mouth of Juniata River, - - - - -	15
Up Juniata River to the standing Stone - - - - -	75
Portage to Conimaugh Old Town, - - - - -	30
Down the Kiskaminetas River to the Allegany River, - - - - -	60
Down that River to Pittsburg, - - - - -	30
	270
And from the supposed Seat of Government at Wright's Ferry, only - - - - -	230

Now, let us see what is the route by the Potomac. First, from the tide-water, on the Potomac, to Fort Cumberland, is two hundred miles.

MR. MADISON thought the gentleman mistaken in his calculations.

MR. CARROLL begged leave to give the Committee some information respecting the distance from tide-water to Fort Cumberland; from the tide-water to the Little Falls was three miles, to the Great Falls six more, from thence to the Seneca Falls was also six more, and from thence to Old Town one hundred and seventeen; which last place was fifteen miles from Fort Cumberland, making in all one hundred and forty-five miles, instead of two hundred, as stated by the gentleman.

MR. AMES imagined his statement to be nearly right, and he found MR. JEFFERSON stated in his Notes that the Falls of the Potomac were fifteen miles in extent, and a navigation extremely difficult to be made.

MR. CARROLL said, it was not near that distance; in the fifteen miles there were three falls, the Seneca, the Great and Little Falls, but they occupy but a small part of the fifteen miles; he could certainly form some judgment of a place which he might say was almost at his door, and did not expect that Mr. Jefferson's Notes would have been adduced as an authority to contradict information he had given in his place. As to the difficulty of the navigation he had to observe that many of the obstacles were at-

ready so far removed as to render the transportation down to the Great Falls practicable; that there the canal was nearly finished, and ready to sink the lock-seats and insert the frames, so that in a little time there was a probability that no impediment whatever would obstruct the descent of produce to the tide-water.

Mr. AMES then proceeded with his calculation; and, said he, let us compare this route to Pittsburg, with that by the Potomac.

	<i>miles.</i>
From the tide-water on Potomac to Fort Cumberland,	200
Portage to the three forks of Turkey-Foot,	30
Water-carriage and portage one mile at the falls of the Youghogany,	9
Down the Youghogany to the Ohio,	50
Up to Pittsburg,	15
	304

I have reason to confide in these calculations. The latter is said to be made by a distinguished person, whose authority no man will dispute. If it is true, or any thing near true, it will destroy the whole argument in favor of the Potomac. I have consulted the best informed persons out of the House, and believe the statement to be true, as it respects both rivers. If it is, the ponderous edifice which the gentleman from Virginia has erected with so much labor crumbles to powder. For it will appear, that it is more than 70 miles nearer by the Susquehanna and Juniata to Pittsburg, than by way of the Potomac. Neither should we forget, from the tide water on the Potomac to Chesapeake is near 200 miles. Of course the access by water is less convenient and direct.

The eastern branch of the Susquehanna is navigable to the head of Lake Otsego. A detachment of General Sullivan's troops came in boats from the lake quite down the river. This river stretches its long arms, and embraces a vast country, comprehending not less than twenty millions of acres.

Let us next consider the connexion through this water with the lakes. Its branches approach the Allegany river very near, and by a portage of only three miles, communicate with the waters of Lake Erie.

Reckoning from Fort Pitt, Lake Erie, and its waters, and the several branches of the Susquehanna, it will be found that more than fifty thousand square miles are accommodated with water carriage. Perhaps, out of America, there is not another such an instance in the world. Yet this is not all. The water communication by the Potomac is subservient to the argument for the Susquehanna; for if the western country is so wonderfully accommodated by it as a highway, then it is only sixty miles travel, a mere portage, to Wright's Ferry; they will be on a footing with those who came by sea, and they will have still greater advantages over many of those who travel by land.

However, Mr. Jefferson's account of the

Potomac does not correspond with the praises now bestowed upon it. He says, the falls are fifteen miles long, and speaks very unfavorably of the interior navigation. In summer, the waters are very subject to fail. My informants prefer the waters of the Susquehanna. Admitting, however, that the Potomac is as commodious as the other, still there are weighty reasons in favor of its rival.

The advantage to the neighboring country, in point of trade, resulting from the Federal town, is unessential in a national view. The people on the Potomac will not be injured, in the conveyance, or sales of their produce, by having it fixed on the Susquehanna. For the influence of the Federal town, in this respect, will not extend far. And as to the convenient access to the Government, it will make only sixty miles difference, which surely is not an object. But the great national point is, to fix the seat of Government in that place where it will best secure the Union.

The Potomac is, in some degree, exposed to two dangers; by sea, and from the mountains, large vessels can go to Georgetown. The events of the late war have proved that there is a foundation for this apprehension. The Western country is to be viewed under different circumstances. From Lake Erie, by Pittsburg, to the head of the Chesapeake, the people are naturally connected with us, they must send their produce through the States. But lower down the Ohio and the Mississippi the people have their exports by the latter river. If the latter should separate from the Union, they will not be willing to leave the Southern States in the Union. The separation will not take place by the mountains, which are far from being impassable. The capital, if imprudently placed so far southwest, will furnish a temptation for this division, and strength and resources to maintain it. I will not debate on this idea, though I think it an important one. The more it is weighed, the more hazardous and preposterous it will appear to place the Capitol in a situation where gentlemen's own arguments admit, when they speak of the contingency of losing the Western country, that we may need all our strength, and yet where we should be able to command but a small part of it.

Contrast this with the Susquehanna. The country is perfectly safe from both dangers of invasion by sea and from the mountains. If a division should happen, the seat of Government will fall on the right side of the dividing line; and so much strength on the frontier of that line will prevent a division. For the country from Lake Erie to Fort Pitt, and from thence to Lake Champlain, vast in its extent, its soil is fruitful, its climate favorable to the production of a hardy race of men, and to sustain a vast multitude of them. This extensive country will be benefited, in some degree, and in a greater attached to the Union, by fixing the seat of Government in this place; besides, nature has united them, by indissoluble ties, to the

SEPTEMBER 5, 1789.]

Permanent Seat of Government.

[H. OF R.]

States, unless a feeble Government should engender the anarchy of many separate sovereignties. It is a pleasing reflection, to trace the effect of the strength of this part of the Western Territory, towards securing the remaining Western region of the Union. At all events, the country east of a line, drawn from Lake Erie to the Chesapeake, will be safe from the force of any other part of America; will that other part be safe from this eastern part? Though national justice, and the wisest policy, should direct our councils, yet ambitious men will find a motive and a pretext for fomenting a division. But those near the line of the eastern half will be unwilling to be a frontier; those further south will be equally so; and what barrier, in case of a separation, have they to oppose to their northern neighbors? The mountains furnish none, and both parties live beyond them. The great rivers will expose them to hostile inroads, as they will afford a convenient passage to troops. In fact, the western people will secure the western people. If the separation should notwithstanding take place, it would not be because nature directs it. We should have the consolation of reflecting, that we have provided the best means of preventing its happening at all, and from it, after it has happened, the best security against the effects which will result.

I will not pretend to say, that any one of these arguments is conclusive; nor do I flatter myself that they will immediately produce conviction; I place dependence on the moderation and good sense of gentlemen who possess public spirit and private honor; I rely upon the calm review which they will make of my observations a week hence, when the fervor of this debate has subsided.

I appeal to their candor, at that time, to decide, whether, in point of centrality, accessibility, protection to the Union, salubrity, and safety from insurrection and invasion, there is not solid reason for establishing the seat of Government on the Susquehanna. I will not say that the Potomac is insalubrious; but it is well known, that northern constitutions are impaired by moving to a more southern latitude. The air may be healthful, but the change is found to be pernicious to them. Whether there is any foundation for it or not, the eastern people would dread the experiment.

The preservation of the Union is the worthy object of a patriot's wishes. The world has doubted our success. I feel a consolation in the opinion, that the measure I am contending for will best contribute to that end. An American Legislature may seek true glory by such measures as will tend to secure the Union, to preserve peace, and to diffuse the blessings of science, liberty and good Government over a greater extent of country, and in a higher degree than the world ever enjoyed them. Surely, this will interest the pride of every honest heart. It is the philosophy of ambition, or it is the religion of politics.

The question, on Mr. Lee's motion for striking out Susquehanna, and inserting Potomac, was put and lost, for it, 21, against it, 29.

Mr. MADISON then moved, to add, after "Susquehanna" the words "or Potomac;" this would furnish an opportunity to examine and compare the two situations. It was so favorable to a discovery of the truth, that he did not doubt but gentlemen who were desirous of grounding their decision upon a full understanding of the subject would agree to the motion.

Mr. BOUNDINOT seconded this motion, and supported it, by observing the necessity there appeared to be, of obtaining a more accurate knowledge of the two rivers, as gentlemen seemed to differ materially with respect to the matter of fact.

Mr. SHERMAN contended, upon the principles adopted yesterday by the committee, that they could not think of going to the Potomac; he said, that taking the population, even allowing the slaves in the Southern States, there was the greatest weight of population northeast of the Susquehanna; but upon the ratio of representation, at a member for forty thousand inhabitants, there was but one million two hundred thousand south of Pennsylvania, one million four hundred thousand north, including Pennsylvania; but if the calculation was made from the Potomac, the south would contain nine hundred and sixty thousand inhabitants, and the north one million six hundred and eighty thousand. Now, he would ask, if gentlemen could expect that the northern people would incline to go so far south? He apprehended they would not.

Mr. CLYMER had mentioned the navigation of the Juniata; but not confiding altogether upon his own memory, he had applied to a very well informed and respectable authority, the Governor of the Western Territory, for information, and he learned, that his former opinion was confirmed, and that five hundred bushels of produce had been transported, in one boat, from Frankstown, at the head of the Juniata, to Middletown.

Mr. MADISON said, the circumstances of being obliged to resort to such an accidental piece of information as the gentleman had just mentioned, strongly evinced, to his mind, the defective knowledge which the committee had at this time of what ought to have considerable influence on the determination of the present question. The object of this motion was to attain more accurate information.

The question being taken on inserting "or Potomac," it passed in the negative.

On motion of Mr. PAGE, the committee rose and reported progress, and then the House adjourned.

SATURDAY, September 5.

A memorial from the Marquis de Chartier de Lotbiniere was presented to the House, and read, stating his claim to two manors, and seignories, situated at the head of Lake Champlain, and bordering on the east bank of the

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 5, 1789.]

head of the said lake; to the possession of which, the United States have succeeded by virtue of the late treaty of peace with Great Britain, and praying that he may receive an equivalent for the same, and a just compensation for the time he has been deprived of the possession thereof.

PERMANENT SEAT OF GOVERNMENT.

The House then resolved itself into a Committee of the whole, on establishing the permanent residence of Congress; when,

Mr. FITZSIMONS presented the following resolution:

Resolved, As the opinion of this committee, that the President of the United States be authorised to appoint — commissioners, to examine, and report to him, the most eligible situation on the east bank of the Susquehanna, for the permanent seat of Government of the United States. That the said commissioners be authorised, by and with the advice of the President, to purchase such quantity of lands as may be thought necessary, and to erect thereon, within — years, suitable buildings for the accommodation of the Congress, and of the officers of the United States. That the Secretary of the Treasury, together with the commissioners so to be appointed, be authorised to borrow a sum not exceeding — dollars, to be paid in — years, with interest, at the rate of — per cent. per annum, payable out of the duties on impost and tonnage, to be applied to the purchase of the land, and the erection of the buildings aforesaid. And that a bill ought to pass, in the present session, in conformity with the foregoing resolutions.

Mr. SMITH (of South Carolina) doubted the propriety of the resolution, because he conceived the declaration in the constitution required a cession of territory as well as jurisdiction. If he was joined in this sentiment by the committee, he would move that the President be empowered to appoint commissioners to examine and report a proper place on the banks of the Susquehanna for a federal town, and that, whenever the State of Pennsylvania shall cede to the United States a certain district or territory, not exceeding ten miles square, Congress would accept thereof for the above purpose.

Mr. SUMTER inquired, whether the State of Pennsylvania had not already made a cession.

Mr. HARTLEY replied, that the State of Pennsylvania had, by its convention, made a cession, as required by the constitution of the United States, to Congress, of the jurisdiction over any district, not exceeding ten miles square, that may be chosen by the acceptance of Congress, for the seat of Government of the United States. He could not help expressing some degree of surprise that gentlemen should advocate such an unreasonable proposition as that a State should convey to the United States the fee simple in a soil which, in all probability, was the property of individuals, and would require the exercise of a despotic power to wrest from them for that purpose.

Mr. SUMTER said, the committee could take no notice of what was done by the convention;

he wished to know if the Legislature had conveyed such a right to Congress.

Mr. HARTLEY said, there had been some doubts with respect to the power of the Legislature to divide its jurisdiction with another; but the convention, who were chosen for the purpose of ratifying the constitution, had adequate powers, and had made a cession in the manner he before mentioned.

Mr. SUMTER apprehended it was necessary the cession should be made by the Legislature, because it was to be done by the State, and in the subsequent part of the clause it substitutes the word Legislature; from whence it may be fairly inferred, that the action is to be performed by the Legislature of the State, and not by the convention.

Mr. CLYMER said, it was specially referred to the convention, by the State of Pennsylvania, to make the cession of territory alluded to in the constitution; so, if the gentlemen would be satisfied, they had made a double cession; namely, a cession by both the convention and the Legislature.

Mr. SMITH (of South Carolina) inquired whether the cession extended to both soil and jurisdiction?

Mr. FITZSIMONS would answer the question by asking the gentleman whether there was any thing in the constitution that looked like a requisition of soil?

Mr. AMES said, the opposition was more ingenious than solid, and hoped it was not intended to embarrass the business. If, however, the State of Pennsylvania had not granted the jurisdiction, it did not follow, that Congress could not fix the permanent seat of Government within its limits.

Mr. SMITH (of South Carolina) grounded his objection on principle, and he was not unsupported, for the cession of Delaware countenanced the idea he contended for. He supposed a State might find its interest in purchasing such a tract and presenting it to Congress, at the same time it would defray to the United States all the expense of establishing a permanent residence. In the present low state of the federal treasury, this was an object of considerable importance, and if it would be attained by taking as central a situation as that proposed in Pennsylvania, it was an argument of considerable weight in accepting it.

Mr. LAWRENCE would inquire for what purpose the cession, mentioned in the constitution, was required? It was, in the words of that instrument, to exercise exclusive Legislation in all cases whatsoever; now, did this consequence involve in it a territorial possession? It certainly did not. It involved nothing more than the power of making laws, independent of the State jurisdiction. The gentleman might have carried his idea further, for as the cession is to be made by particular States, it seems to infer that two States, at least, should be concerned in the cession; but would objections, from such forced constructions, have any weight in the

SEPTEMBER 5, 1789.]

Permanent Seat of Government.

[H. OF R.]

judgment of the committee? He trusted they would not. He supposed it more rational to attend to the plain literal meaning of the constitution than to engage in the discussion of the refined speculations of ingenious men.

Mr. VINING observed, that Delaware, Maryland, and Virginia, had offered to cede territory, as well as jurisdiction, and there would be a great impropriety in expending the federal treasure, in purchasing the soil, when they might have it without expense.

Mr. AMES endeavored to show that such a cession, as was contemplated in the constitution, might be made by one State to another, without giving a property to a foot of land. By comparing it with the cession of Silesia to Prussia, where not a single acre of soil was conveyed, but of jurisdiction to the whole province; so, when territory changes its government, by being the sacrifice of a treaty of peace. He supposed that Congress were to purchase the soil necessary to erect buildings for the accommodation of the Government, and was satisfied the cession might be made subsequent to their election of a particular spot.

Mr. JACKSON opposed the purchase of soil at this time, because the existing demands on the public were of a primary nature, and ought not to be set aside for the attainment of an object which might be very well suspended for a considerable time.

Mr. STONE did not object to the purchase of the soil, because, with judicious management, the Government might dispose of it again at a profit; and not only indemnify the expense of the purchase, but raise enough to defray the price of erecting necessary buildings.

Mr. VINING said, it was not his intention that the State Government should take the property of individuals without compensation; but he could easily conceive, that it would be worth while for the State to purchase a tract of country, and give it to the General Government for their permanent residence. If it was to cost one hundred thousand dollars, and the State would receive an advantage equal to two hundred thousand dollars, from having the emporium of America in their neighborhood, he conceived it would be a good bargain.

Mr. SENEY.—The gentleman from Delaware has said, that Maryland proposed a cession of soil; but I believe, sir, there is not such a word as soil mentioned in the law.

Mr. CARROLL agreed with his colleague, and supposed that a cession of soil could not have been contemplated, because the State of Maryland had offered any part of the State, not excepting the town of Baltimore. He believed if Congress were disposed to fix in that town, it would be agreeable to the State; but he did not imagine they would agree to give the General Government a property to the whole town, and the surrounding country. The other parts of the State had never contemplated making the inhabitants of Baltimore a compensation for such an immense property.

Mr. GOODHUE believed, if the House had agreed to go to the Potomac, there would have been none of these constitutional difficulties stated. It was well known, he said, that the gentlemen from the eastward had no desire to take up the subject; but those from the southward were sanguine in their expectations that they should get the Government to the Potomac; and were, therefore, for pressing the business, and not allowing it to be postponed, as was contended for on the other hand.

Mr. MADISON said, the business was not brought on by their original motion, though they gave it their support. It was true, that a proposition for postponement was made, but what was the extent of that postponement? Till December or January next. Was there any reason to suppose that those gentlemen, who were, at this day, opposed to the Potomac, would give into such a change of opinion by that time, as to induce us to agree to their proposition. We saw no reason to expect such a change. And, as in fact we find a predetermined majority ready to dispose of us, the sooner we know our destiny the better; for it can be of little consequence, if we are to be disposed of, whether we are disposed of in September or December.

Mr. WADSWORTH.—The reiteration of being disposed of, by bargaining, induces me to rise and make one remark. It is a notorious fact, to the members within these walls, that the New England members, to a man, were opposed to a decision at present; and that they were disposed to accommodate the Southern States. They refused all bargaining, till they were assured there was a bargaining set on foot to carry them to the Potomac; why, then, are we reproached with this? Whatever bargaining there has been, we were the last to come into it; we never thought of it, till we were told that we were a property, and should be disposed of, unless we took care of ourselves. I hope, as we have gone so far, we shall settle the subject in dispute, by granting the money and erecting the necessary buildings.

Mr. JACKSON denied being concerned in any bargaining whatever, and defied any gentleman to say he knew any thing of one, till he heard it mentioned on this floor; he was determined to keep himself disengaged, and to vote according as his judgment should lead him, after hearing the subject coolly and thoroughly discussed.

Mr. MADISON hoped, if he travelled a little out of order, he should be justified, after what had taken place; but he could not withhold this public declaration of his wish, that every thing that had passed on the subject alluded to by the gentleman from Connecticut, (Mr. WADSWORTH,) were to be fully understood, and were reduced to writing. Every thing he knew of it he was willing, on his part, to put into that form; and he was well persuaded that it would be found, on examination, that the opposition of the Southern gentlemen was

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 5, 1789.]

of a defensive nature, and that they had not listened to a proposition, until they had reason to think it necessary to prevent a sudden and improper decision of this very important question.

Mr. SMITH, of South Carolina, begged gentlemen to remember, that all the Southern members had not been in favor of bringing forward the business at the present session; he had opposed it as well as some others.

Mr. TUCKER wished, before the blanks in the resolution were filled up, that it might be amended, for in its present form he conceived it to be totally inadmissible. The objections already mentioned struck his mind with great force; but he had one further objection. We are proceeding, said he, by this resolution, to give a discretionary power to the President of the United States, and the commissioners he may appoint, which no body of men ought to exercise but ourselves with the other branch of the Legislature. We fix a line, on some part of which the commissioners are authorized, by and with the advice and consent of the President, to purchase such quantity of land as they think proper. There is a power to fix the seat of Government on any part of a line five or six hundred miles in extent. Were we sent here to give such powers to any men? It is nothing less, in my mind, than betraying those rights of our fellow-citizens which we were sent here to guard. The place where the permanent seat of Government shall be fixed is allowed, by every member, to be a matter of great consequence to every part of the Union; the warmth of the debates evinces it to be a matter of the first importance, yet we are willing to get rid of it in any way, and throw it into such hands as our constituents never expected. I have no want of confidence in the judgment and discretion of the President, or those whom he may employ; but I never can agree that they shall exercise their judgment or discretion in a business to which the two branches of the Legislature alone are competent. We ought ourselves to fix the particular spot, and not leave it to any one, however eminent his station, to say where we shall assemble to legislate; there may be danger in the precedent. But are all the parts of this long river alike eligible? If they are not, it is another reason why we should decide upon the spot. I would move, therefore, to alter the resolution, by making it the duty of the commissioners to report to Congress, and not to the President; by which means, at a future session, we shall be able to execute the whole plan according to our judgment.

After this was done, he would proceed and make the best bargain he could with a State for the soil. He did not know that his colleague was right in supposing that the constitution required a cession of territory, as well as jurisdiction; but he thought, if it could be obtained, it would be of great advantage to the Union, and he was willing to accept it.

Mr. SUMNER approved of the idea of his colleague, and would second his motion if he would go further; he wished the commissioners to go and explore the banks of the river, and report a choice of situations, by which means one would be bidding against another, and the Government, perhaps, might get the soil at a moderate price.

The question was put, on striking out the word "him" after "report to," and insert "Congress;" this passed in the negative, twenty-one for, and twenty-nine against it.

It was then agreed to fill the first blank with three. It was severally moved to fill the second blank with four, three, two, and one year; but all these being negatived, the blank was left to be filled in the House.

The third blank, respecting the sum to defray the expense, was filled with one hundred thousand dollars, to be paid in twenty years, at an interest of five per cent.

The whole resolution was then agreed to, twenty-nine to nineteen; after which the committee rose, and reported the resolution; which being under consideration in the House,

Mr. LEE conceived it to be his duty to present once more the preamble, which had been rejected in committee. He flattered himself, after the discussion which had taken place, that gentlemen were prepared to decide on liberal and national principles, and, therefore, they would adopt those he presented.

Mr. CARROLL would not have undertaken to trouble the House with his sentiments again, but that the gentleman from Massachusetts (Mr. AMES) insisted much upon the facts he found stated in Mr. Jefferson's Notes on Virginia. After he had undertaken to assure the Committee of the whole of the facts respecting the navigation of the Potomac, which he could, as it were, observe from his own door, he expected, from that gentleman's candor, when he informed him that the falls were not extended the length of fifteen miles, and that the obstacles to the navigation were, in a great measure, removed, that he would not have dwelt upon them as arguments against going to the Potomac. He mentioned, that such progress was made in facilitating the navigation through the falls, that there was every probability an unimpeded passage would be allowed to the produce of the lands on its most remote and western branches; since which he had learned that a vessel, carrying twenty-four hogsheds of tobacco, equal to twelve tons' burthen, had come down that river to within thirteen miles of Georgetown, by which it was evident that the greatest obstructions were removed. From a knowledge of these facts, he hoped the gentleman's candor would induce him to give up the conclusions he drew from different information; and he trusted his justice would engage him to give a different vote from what he had given in the committee.

Mr. SEXEY approved of the Susquehanna in preference to the Potomac, on every principle

SEPTEMBER 7, 1789.]

Permanent Seat of Government.

[H. OF R.]

which had been brought into view, as proper to guide the House in deciding the present question. He treated the alarm which gentlemen apprehended would be given by fixing on the Susquehanna as merely ideal, and existing no where but in the imagination of gentlemen; so far from exciting jealousy, or disturbing the public mind, he contemplated it as tending to allay uneasiness, and to give general satisfaction.

On motion, the House now adjourned.

MONDAY, September 7.

PERMANENT SEAT OF GOVERNMENT.

The House resumed the consideration of the resolutions reported by the Committee of the whole for establishing the permanent residence of Congress.

Whereupon, the first resolution was agreed to, and the second, to wit:

Resolved, That the permanent seat of the Government of the United States ought to be at some convenient place on the east bank of the river Susquehanna, in the State of Pennsylvania; and that, until the necessary buildings be erected for the purpose, the seat of Government ought to continue at the city of New York,

Being under consideration,

Mr. LEE withdrew his proposition offered yesterday, and moved to amend the said resolution, by striking out the words "East Bank of the River Susquehanna, in the State of Pennsylvania," and inserting, in lieu thereof, the "North bank of the River Potomac, in the State of Maryland."

And, on the question that the House do agree to the said amendment, the yeas and nays were demanded, and are

YEAS.—Messrs. Baldwin, Bland, Brown, Burke, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Smith, (of South Carolina,) Stone, Sumter, Tucker and Vining—21.

NAYS.—Messrs. Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorne, Lawrence, Livermore, P. Muhlenburg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Thatcher, Trumbull, Wadsworth and Wynkoop—29.

So it was determined in the negative.

Mr. VINING said, it now became his duty, after having sacrificed a prejudice, if he had one, by giving his vote for the Potomac, to bring before the House the humble claim of Delaware. He apprehended that her claim to centrality, as it respected wealth and population, were superior to that of the Susquehanna; and that, if a sea-coast line was to be a criterion, she was near the centre of territory. He supposed that this was the line upon which the Committee was to decide for the present. It was not supposed necessary, at this time, to take into consideration the vacant and extensive Western Territory, or why refuse the Potomac, which offered

itself under the greatest advantages of an easy intercourse with that quarter? Add to the reasons he had mentioned, that the United States would consult their interest by fixing on the Delaware, as they would not incur the heavy expense of purchasing territory, and erecting magnificent palaces and hotels for the Government, and he thought gentlemen would not hesitate to agree with him.

The place he meant to offer was possessed of eminent superiority, as to salubrity of air and fertility of soil; it also united the advantages of the Atlantic and inland navigation; inasmuch as, by cutting a canal from the waters of the Chesapeake to the Delaware, a communication would be opened from Carolina, Virginia, and Maryland, to New Jersey, Pennsylvania and the midland counties of New York. The spot that he proposed for their acceptance was Wilmington in the State of Delaware; round which they might have a district for exclusive legislation, if it was thought proper to accept it. Under these impressions, he would frame his motion in such a way, as to enable Congress, when they did adjourn, to adjourn to meet at that borough. It was made in this form: "To strike out the word 'permanent,' and all the remainder of the clause, after the words, 'ought to be at,' and to insert, in lieu of the last, 'the borough of Wilmington, in the State of Delaware.'"

On the question, that the House do agree to the said amendment, the yeas and nays were demanded, and are

YEAS.—Messrs. Baldwin, Bland, Boudinot, Burke, Cadwalader, Coles, Contee, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of South Carolina,) Sumter, and Vining—19.

NAYS.—Messrs. Ames, Benson, Brown, Carroll, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorne, Heister, Lawrence, Livermore, P. Muhlenburg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—32.

Mr. BOUDINOT remarked, that the peculiar situation in which he had been placed, by having the chair of the Committee, prevented him from giving his sentiments on the subject then; he therefore hoped to be indulged with stating the claim of the Delaware to the honor of the Federal City. When a question of such great magnitude, and which involved the interests of the Union, was to be decided, he thought he could be neither doing justice to the United States at large, nor his immediate constituents, were he to neglect to call their attention to what the former Congress had done in favor of the Delaware. He was surprised that gentlemen, who contended for the accommodation of their constituents, should be led so far astray from pursuing that object, as to pass far beyond the centre of wealth and population, as well as territory; or, if they did not pass the centre of territory, they went to a place, maugre all that had been said, devoid of those advantages which

ought to attend the Federal residence. The want of communication with the Atlantic, the difficulty of navigating its waters, from the innumerable rocks, falls and shoals with which it abounds, which, from actual observation, he was induced to believe were insuperable obstructions to a connexion with the western waters, or, if they could be surmounted, it would be at such cost of money and labor, as the United States were not in a condition to expend, at a time when the widows and orphans were starving for want of the pittance due to them by the Government. The sterility of the soil, and the unhealthiness of a situation on the banks of a river which was subject to rise twenty feet and more, and overflow its banks, leaving behind vast quantities of stagnant water, whence proceeded noxious exhalations, the cause of a long catalogue of diseases, were altogether, in his mind, such objections to the place, that he could never imagine a majority of the House could consent to it. He further observed, that the Government would be secluded from the world, and the channels of information; there were few inhabitants, unless it was in the neighborhood of York or Lancaster.

But, beside all these considerations, there was this further, that there was an existing resolution of Congress for erecting the necessary buildings for their accommodation on the banks of the Delaware and Potomac, and an absolute grant of money for the purpose of defraying the expense. Now, as these had each of them strong pretensions, he was willing to have them considered and examined by commissioners sent on the ground. For the sake of accommodation, he would, therefore, move to amend the resolution, by striking out the words "east bank of the River Susquehanna, in the State of Pennsylvania," and inserting in lieu thereof the words "Potomac, Susquehanna, or Delaware."

On the question, that the House do agree to the said amendment, it passed in the negative; the yeas and nays being required, are as follows:

YEAS—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Griffin, Jackson, Lee, Madison, Matthews, Moore, Parker, Page, Sinnickson, Smith, (of South Carolina,) Stone, Sumter, Tucker and Vining—23.

NAYS—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorne, Heister, Lawrence, Livermore, P. Muhlenburg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Thatcher, Trumbull, Wadsworth and Wynkoop—28.

Mr. BOUDINOT then moved to amend the resolution, by striking out the words "east bank of the River Susquehanna, in the State of Pennsylvania," and inserting, in lieu thereof, the words, "banks of either side of the River Delaware, not more than eight miles above or below the lower falls of Delaware."

On this question, the yeas and nays were demanded, and are:

YEAS—Messrs. Boudinot, Cadwalader, Gerry and Sinnickson—4.

NAYS—Messrs. Ames, Baldwin, Benson, Bland, Brown, Burke, Carroll, Clymer, Coles, Contee, Fitzsimons, Floyd, Foster, Gale, Gilman, Griffin, Grout, Goodhue, Hartley, Hathorne, Heister, Jackson, Lawrence, Lee, Livermore, Madison, Matthews, Moore, Muhlenberg, Page, Parker, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—46.

Mr. STONE then moved to amend the resolution, by striking out the words "east bank," and inserting in lieu thereof the word "banks;" and on the question, that the House do agree to the said amendment, the yeas and nays being demanded, were as follow:

YEAS—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker, and Vining—26.

NAYS—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorne, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop—25.

So it passed in the affirmative.

A motion was then made, and seconded, further to amend the said resolution, by inserting, after the word "Pennsylvania," the words "or Maryland," and, on the question the House do agree to the said amendment, it passed in the negative; and the yeas and nays being demanded, were as follow:

AYES—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of M.) Smith, (of S. C.) Stone, Sumter, Tucker and Vining—25.

NAYS—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorne, Heister, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop—26.

Mr. LEE expected the question would be divided on the resolution, as it contained two distinct objects, the permanent and temporary residence.

Mr. PAGE suggested the propriety of striking out the latter part of the clause, relating to New York, and to confine the resolution merely to the avowed object, namely, the permanent residence.

The question was taken on striking out, and it passed in the negative, 24 for, 27 against it.

Mr. VING then moved to strike out the words "City of New-York," and insert, in lieu thereof, "Borough of Wilmington, in the state of Delaware;" and on the question to agree to the said amendment, the yeas and nays being demanded, were as follow:

AYES.—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale,

SEPTEMBER 7, 1789.]

Permanent Seat of Government.

[H. OF R.]

Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Sumter and Vining.—21.

YAYS.—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland) Smith, (of South-Carolina) Stone, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop.—30.

So it passed in the negative.

Mr. PARKER moved to strike out "New-York" and insert "Philadelphia."

Mr. LEE said the city of New-York possessed every convenience and accommodation; he was strongly impressed in favor of the inhabitants, their urbanity and industry did honor to America, and nothing could induce him to vote for striking out the words, but a sense of duty. He flattered himself that a regard would now be paid to the great principles of centrality, which Philadelphia possessed in a great degree; the conveniences and accommodations to be found in that city were equal, if not superior to what New-York presented; her public buildings and institutions were, he believed, at their command; the inhabitants were industrious, temperate, and frugal; in short, every principle which operated in favor of the Susquehanna, as a permanent residence, applied with equal or more force in favor of Philadelphia as the temporary seat of Government.

Mr. SHERMAN hoped the house were disposed to make as few removes as possible, and that as the buildings for their accommodation might be in readiness in two or three years at the permanent residence, they would be disposed to continue in New-York till that time.

On the question, that the House do agree to the said amendment, the yeas and nays being demanded, are as follows:

AYES.—Messrs. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Heister, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Stone, Sumter, and Vining.—22.

NAYS.—Messrs. Ames, Benson, Bland, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South-Carolina,) Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop.—29.

The main question being put, the second resolution, as amended, was agreed to by the House, in the words following, to wit:

"Resolved, That the permanent seat of the Government of the United States ought to be at some convenient place on the banks of the river Susquehanna, in the state of Pennsylvania; and that, until the necessary buildings be erected for the purpose, the seat of Government ought to continue in the city of New-York."

The third resolution, in the words following, to wit:

"Resolved, That the President of the United States be authorized to appoint three commissioners,

to examine and report to him the most eligible situation on the banks of the Susquehanna, in the state of Pennsylvania, for the permanent seat of the Government of the United States; that the said Commissioners be authorized, under the direction of the President, to purchase such quantity of land as may be thought necessary, and to erect thereon, within four years, suitable buildings for the accommodation of the Congress, and of the other officers of the United States; that the Secretary of the Treasury, together with the Commissioners so to be appointed, be authorized to borrow a sum, not exceeding one hundred thousand dollars, to be repaid within twenty years, with interest, not exceeding the rate of five per cent. per annum, out of the duties on impost and tonnage, to be applied to the purchase of the land, and the erection of buildings aforesaid; and that a bill ought to pass, in the present session, in conformity with the foregoing resolutions."

A motion was made by Mr. GALE, to amend the same, by inserting after the word "aforesaid" the following proviso, viz.

"Provided, nevertheless, that, previous to any such purchase, or erection of buildings as aforesaid, the Legislatures of the States of Pennsylvania and Maryland make such provision for removing all obstructions to the navigation of the said river, between the seat of the Federal Government and the mouth thereof, as may be satisfactory to the President of the United States."

The yeas and nays being demanded, it passed in the negative.

AYES.—Messrs. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Sinnickson, Smith, (of Maryland,) Smith, (of South-Carolina,) Stone, Sumter, Tucker and Vining.—24.

NAYS.—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop.—25.

And then the main question being put, Do the House agree to the said third resolution, as reported by the committee of the whole House?

The yeas and nays being demanded, it passed in the affirmative.

AYES.—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Wadsworth and Wynkoop.—28.

NAYS.—Messrs. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gerry, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of South-Carolina,) Sumter, Tucker and Vining.—21.

Ordered, That a bill or bills be brought in, pursuant to the foregoing resolutions, and that Messrs. AMES, LAWRENCE, and CLYMER do prepare and bring in the same.

A message from the Senate informed the

H. OF R.]

Judiciary.

[SEPTEMBER 9, 1789.]

House, that the Senate had passed the compensation bill; also, the bill to provide for the safe keeping of the acts, records and seal of the United States, with several amendments, to which they desire the concurrence of this House; and the bill for establishing the salaries of the Executive officers of Government, with their Assistants and Clerks, with amendments; and, that they adhere to their amendment to the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses: some of which they agree to, and others they disagree to.

TUESDAY, September 8.

A petition from sundry inhabitants of the state of New Jersey was presented to the House, and read, praying that the seat of the Federal, District and Circuit Courts, for that State, be fixed at Perth Amboy.

Also a petition from sundry inhabitants of Georgetown, in the State of Maryland, containing an offer to put themselves and fortunes under the exclusive jurisdiction of Congress in case the town should be selected as the permanent seat of Government of the United States.

Ordered, That the said petitions do lie on the table.

The House then proceeded to consider the amendments proposed by the Senate to the bill, for establishing the salaries of the Executive Officers of Government, with their Assistants and Clerks." Some of which they agreed to, and others they disagreed to.

Also, to consider the amendment proposed by the Senate to the bill to provide for the safe keeping of the acts, records and seal of the United States; which was agreed to.

The House proceeded to reconsider the first amendment proposed by the Senate to the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses.

Whereupon,

Resolved, That a conference be desired with the Senate, on the subject-matter of the said amendment; and that Messrs. SHERMAN, TUCKER, and BENSON be appointed managers on the part of this House.

The House then resolved itself into a Committee of the whole on the bill sent from the Senate, to establish the Judicial Courts of the United States, Mr. BOUDINOT in the chair; and after some time spent in considering the same, the committee rose and reported progress; and then the House adjourned.

WEDNESDAY, September 9.

Mr. GOODHUE, from the committee to whom were referred the petitions from sundry inhabitants of the States of Rhode Island and North

Carolina, presented a bill for suspending the operations of part of an act imposing duties on tonnage, which was received and read a first time.

The House proceeded to consider the petition of the Marquis de Chartier de Lothbiniere, which lay on the table;

Whereupon,

Resolved, That the said petition be rejected.

Ordered, That the Committee of the whole House on the state of the Union be discharged from further proceeding on the message from the President of the United States, of the 10th ultimo; and that the said message be referred to Messrs. BOUDINOT, TRUMBULL, and BURKE; and that they do examine the matter thereof, and report the same, with their opinion, to the House.

THE JUDICIARY.

The House resolved itself into a Committee of the whole on the bill sent from the Senate to establish the Judicial Courts of the United States, Mr. BOUDINOT in the chair; and after some time being spent therein, the committee rose and reported progress.

A message from the Senate informed the House that the Senate insist on their amendment, disagreed to by this House, to the bill for allowing a compensation to the President and Vice President of the United States, and desire a conference with the House, on the subject-matter of the same. They also agree to the conference proposed by this House, on the subject-matter of the first amendment of the Senate to the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses; and have appointed managers at the said conference on their part. The Senate also recede from their second and sixth amendments; and insist on their third and fifth amendments, disagreed to by this House, to the bill for establishing the salaries of the Executive Officers of Government, with their assistants and clerks.

Resolved, That this House doth agree to the conference desired by the Senate, on the subject-matter of their amendment to the bill for allowing compensation to the President and Vice President of the United States; and that Messrs. BALDWIN, LIVERMORE, and GOODHUE be appointed managers at the same, on the part of the House.

The House then proceeded to consider the third and fifth amendments, insisted on by the Senate to the bill for establishing the salaries of the Executive Officers of Government, with their assistants and clerks,

Whereupon,

Resolved, That this House doth recede from their disagreement to the said amendments.

The House then proceeded to consider the report of the committee, to whom was referred a letter from the Postmaster General, which lies on the table: Whereupon,

SEPTEMBER 11, 1789.]

Pay of Members.

[H. OF R.]

Resolved, That until further provision be made by law, the General Post-Office of the United States shall be conducted according to the rules and regulations prescribed by the ordinances and resolutions of the late Congress; and that contracts be made for the conveyance of the mail in conformity thereto.

On motion made, and seconded, that the House do come to the following resolution:

Resolved, That money shall not be drawn from the Treasury of the United States, unless by appropriations made or particularly confirmed by acts of Congress, subsequent to the 4th of March last.

Ordered, That the said motion be referred to a committee, consisting of Messrs. HUNTINGTON, BURKE, and GRIFFIN.—Adjourned.

THURSDAY, September 10.

A message from the Senate informed the House, that the Senate have agreed to the resolution of this House, of the second ultimo, containing certain articles to be proposed by Congress to the Legislatures of the several States, as amendments to the constitution of the United States, with several amendments; to which they desire the concurrence of this House.

A bill for suspending the operation of part of an act for imposing duties on Tonnage was read the second time, and ordered to be engrossed, and read a third time to-morrow.

PAY OF MEMBERS.

Mr. SHERMAN, from the Committee of Conference, reported, that a conference with the committee of the Senate had taken place upon the subject of discrimination in the pay of the two Houses, proposed as an amendment to the Salary bill, and insisted on by the Senate. The report was, in substance, that they had come to no precise agreement; that the Senate could not be induced to recede from their amendment; but, by way of compromise, the committee, on the part of the Senate, proposed that the compensation provided for by the present bill should be limited to seven years, the last of which, the compensation of the Senate, to be at seven dollars; Or they proposed that the House should pass a law providing for their own compensation, without including the Senate.

A motion was then made, that this House do recede from their disagreement to the said amendment, by adding to the end of the bill the following clause:

And be it further enacted, That this act shall continue in force until the fourth of March, in the year 1796, and no longer.

The ayes and nays being demanded, it passed in the negative.

AYES.—Messrs. Ames, Baldwin, Benson, Brown, Cadwalader, Clymer, Fitzsimons, Gale, Gerry, Griffin, Hartley, Huntington, Lawrence, Lee, Livermore, Madison, Moore, Muhlenberg, Scott, Sherman, Smith, (of South Carolina,) Trumbull, Vining, and Winkoop.—24.

NAYS.—Messrs. Bland, Boudinot, Burke, Carroll, Coles, Contee, Floyd, Foster, Gilman, Goodhue,

Grant, Hathorn, Heister, Jackson, Matthews, Page, Parker, Partridge, Van Rensselaer, Schureman, Seney, Sylvester, Sinnickson, Smith, (of Maryland,) Stone, Sumter, Thatcher, Tucker, and White.—29.

The committee on the petition of the public creditors, and other citizens of Philadelphia, reported, that the petition deserves the attentive consideration of Congress; but as the present session was short, and it was necessary to despatch much important business, now before Congress, it became impracticable to give the subject, this session, the attention that it merited. They, therefore, submitted a resolution to the following effect:

Resolved, That it highly concerns the honor and interest of the United States to make some early and effectual provision in favor of the creditors of the Union; and that the House would early next session take this subject into consideration.

Mr. BOUNDINOT then moved, that a committee be appointed to bring in a bill to establish the compensation of the members, and the officers of both Houses for one year.

The orders of the day for the House to resolve itself into a Committee of the whole on the Land Office bill, also on the Judiciary bill were read, and postponed until to-morrow. Then the House adjourned.

FRIDAY, September 11.

The engrossed bill for suspending the operation of part of the Tonnage bill was brought in, engrossed, read the third time and passed.

PAY OF MEMBERS.

Mr. BURKE wished to reconsider the Compensation bill respecting the pay of the members of the two Houses, which fell through yesterday. He was sorry that the House had not laid the bill for compensating the services of the President and Vice President on their table, and retained it as a hostage for the passing of the other through the Senate, without the clause making a discrimination in the pay between the Senate and House of Representatives. As the majority had not taken this precaution, he supposed they would be obliged to agree to the discrimination; the necessity of the case demanded all consideration, as they were obliged, by the constitution, to fix upon a compensation for their own services; and as the majority had let what he thought a security to them pass out of their reach, he would stick no longer by them.

Mr. JACKSON was sorry to find the gentleman's resolution shaken; for his part, he would rather go without pay than accept it with the condition proposed. He hoped the bill would not be reconsidered; perhaps some expedient might be devised to enable gentlemen to get money enough to defray their expenses, and so warrant them to let the bill die.

Mr. BURKE said, while there was any prospect of successfully opposing the proposition of the Senate he held out; but as the House had let slip the only opportunity they had of con-

H. OF R.]

Judiciary.

[SEPTEMBER 11, 1789.]

tending with them on equal ground, he was disposed to give up the contest.

Mr. MADISON was extremely anxious that an accommodation should take place; but he was apprehensive that the proposed motion of reconsidering the bill, if successful, would be attended with dangerous consequences. He supposed the vote of yesterday amounted to a direct negative on the bill: of course it was lost, and could not be revived. He supposed that certain forms were necessary, in the passage of a bill, in order to prevent surprise, and he thought that this conduct would amount to a very summary proceeding. A full House might one day reject a bill, which a thin House might pass the subsequent morning. Considering all these circumstances, he was inclined to think the motion was out of order.

Mr. SHERMAN conceived the bill to be still before the House, and was in favor of a reconsideration.

Mr. GERRY entertained the same sentiments as the gentleman from Virginia with respect to the restoration of a bill that was lost; but he by no means conceived that to be the case with the present. The bill was still before the House, the vote of yesterday was not carried to the Senate, and the bill was still on the table. He thought, under these circumstances, they might reconsider the vote of yesterday if the majority acquiesced in the same opinion.

Mr. LAWRENCE joined in opinion with Mr. GERRY.

Mr. VINING conceived the question to be of importance, and had examined the Parliamentary proceedings of Britain; not that he supposed the House bound by the *lex parliamentaria* of that nation, but, as many of their rules were correspondent, it might influence the judgment, especially as it was presumable that the rules of that body were founded in experience. He adduced a case in point, which happened in July, 1768.

Some further conversation took place on the question of order, when the motion to reconsider was declared by the Chair to be in order. An appeal being made from this decision, it was determined by the House to be in order—30 to 24.

And then the question on Mr. BURKE's motion being put, that the House do now proceed to reconsider the proceedings of yesterday on the Compensation bill, so far as relates to the adherence of the House to their disagreement to the Senate's amendment, making a discrimination between the pay of the members of the two branches of the Legislature, it was determined in the affirmative. The yeas and nays being required, are,

YEAS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Burke, Cadwalader, Carroll, Clymer, Fitzsimons, Gale, Gerry, Griffin, Hartley, Huntington, Lawrence, Lee, Livermore, Madison, Moore, Muhlenberg, Page, Scott, Sherman, Smith, (of South Carolina,) Trumbull, Vining, Wadsworth, and Wynkoop.—29.

NAYS.—Messrs. Bland, Coles, Contee, Floyd, Foster, Gilmer, Goodhue, Grout, Hathorn, Heister,

Jackson, Matthews, Parker, Partridge, Van Rensselaer, Schureman, Seney, Sylvester, Sinnickson, Smith, (of Maryland,) Stone, Sumter, Thatcher, Tucker, and White.—25.

A motion was then made to agree to the amendment of the Senate, with an amendment, by adding to the end of the bill the following clause:

"And be it further enacted, That this clause shall continue in force till the first day of March, in the year 1796, and no longer."

And the question being put thereupon, it was resolved in the affirmative. The yeas and nays being required, are as follow:

YEAS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Burke, Cadwalader, Carroll, Clymer, Fitzsimons, Gale, Gerry, Griffin, Hartley, Huntington, Lawrence, Lee, Livermore, Madison, Moore, Muhlenberg, Scott, Sherman, Smith, (of South Carolina,) Trumbull, Vining, Wadsworth, and Wynkoop.—28.

NAYS.—Messrs. Bland, Coles, Contee, Floyd, Foster, Gilman, Goodhue, Grout, Hathorn, Heister, Jackson, Matthews, Page, Parker, Partridge, Van Rensselaer, Schureman, Seney, Sylvester, Sinnickson, Smith, (of Maryland,) Stone, Sumter, Thatcher, Tucker, and White.—26.

The House then resolved itself into a Committee of the whole, on the Judiciary bill; and, after some time spent in considering the same, the committee rose and reported progress.

Adjourned.

SATURDAY, September 12.

A message from the Senate informed the House, that they had agreed to their amendment to the Compensation bill.

JUDICIARY BILL.

The House went again into a Committee of the whole on the Judiciary bill, Mr. Boudinot in the chair; and after spending some time upon it, they reported progress, and obtained leave to sit again.

MONDAY, September 14.

COLLECTION OF DUTIES.

A message from the Senate informed the House, that they have passed the bill for suspending part of the act for regulating the collection of duties imposed on the Tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States, with several amendments, to which they request the concurrence of the House.

The House proceeded to reconsider the above amendments, and agreed to them.

JUDICIARY BILL.

The House then again went into a Committee of the whole on the Judiciary bill, Mr. Boudinot in the chair; and having gone through the same, reported it to the House with several amendments, which were ordered to lie on the table.

SEPTEMBER 17, 1789.]

Wabash Indians.

[H. OF R.]

Mr. AMES, from the committee appointed for the purpose, presented a bill to establish the seat of the Government of the United States.

TUESDAY, September 15.

The bill to establish the seat of the Government of the United States was read the second time, and ordered to be committed to a Committee of the whole House on Thursday next.

The House proceeded to consider the amendments reported by the Committee of the whole, to the bill to establish the Judicial Courts of the United States, which being concurred with, the bill, as amended, was ordered to be engrossed for a third reading.

POST-OFFICE.

A message from the Senate informed the House, that they have passed a bill for the temporary establishment of the Post-Office; to which they request the concurrence of this House.

WEDNESDAY, September 16.

The bill for the temporary establishment of the Post-Office was read the first time.

On motion, ordered, that a Committee be appointed to prepare and bring in a bill for amending the act to regulate the collection of the duties imposed by law on the Tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States; and that Messrs. SHERMAN, GOODHUE, and CONTEE form said committee.

Another committee, consisting of Messrs. BURKE, MOORE and LAWRENCE, was appointed to bring in a bill for establishing the salaries of the Judicial Department.

The following message was received from the President of the United States, by the Secretary of War, together with a letter from the Governor of the Western Territory, therein referred to. The said message was read, and is as follows:

Gentlemen of the House of Representatives:

The Governor of the Western Territory has made a statement to me of the reciprocal hostilities of the Wabash Indians, and the white people inhabiting the frontiers, bordering on the River Ohio, which I herewith lay before Congress.

The United States, in Congress assembled, by their acts of the 21st day of July, 1787, and of the 12th day of August, 1788, made a provisional arrangement for calling forth the militia of Virginia and Pennsylvania, in the proportions therein specified.

As the circumstances which occasioned the said arrangement continue nearly the same, I think proper to suggest to your consideration, the expediency of making some temporary provision for calling forth the militia of the United States, for the purposes stated in the Constitution, which would embrace the cases apprehended by the Governor of the Western Territory.

GEORGE WASHINGTON.

September 16, 1789.

The following being enclosed, was also read.

NEW YORK, September 24, 1789.

SIR—The constant hostilities between the Indians who live upon the River Wabash, and the people of Kentucky, must necessarily be attended with such embarrassing circumstances to the government of the Western Territory, that I am induced to request you will be pleased to take the matter into consideration, and give me the orders you may think proper.

It is not to be expected, sir, that the Kentucky people will, or can submit, patiently, to the cruelties and depredations of those savages; they are in the habit of retaliation, perhaps without attending precisely to the nations from which the injuries are received. They will continue to retaliate, or they will apply to the Governor of the Western Country (through which the Indians must pass to attack them) for redress; if he cannot redress them (and in present circumstances he cannot,) they also will march through that country to redress themselves, and the Government will be laid prostrate. The United States, on the other hand, are at peace with several of the nations; and, should the resentment of these people fall upon any of them, which it is likely enough may happen, very bad consequences may follow; for it must appear to them, that the United States either pay no regard to their treaties, or that they are unable or unwilling to carry their engagements into effect. Remonstrances will probably be made by them, also, to the Governor, and he will be found in a situation from which he can neither redress the one nor protect the other; they will unite with the hostile nations, preferring open war to a delusive and uncertain peace.

By a resolution of the late Congress, the Governor of the Western Territory had power, in case of hostilities, to call upon Virginia and Pennsylvania for a number of men to act in conjunction with the Continental troops, and carry war into the Indian settlements; that resolution, it is now supposed, is no longer in force. The revival of it might be of use, as it would tend to conciliate the western people, by showing them that they were not unattended to, and would, in some measure, justify me in holding a language to the Indians, which might obviate the necessity of employing force against them.

The handful of troops, sir, that are scattered in that country, though they may afford protection to some settlements, cannot positively act offensively by themselves.

I have the honor to be, sir,

Your most obedient, and humble serv't,

ARTHUR ST. CLAIR.

To the President of the United States.

The said message was referred to Messrs. BOUDINOT, TRUMBULL, and BURKE, to examine the matter thereof, and report the same to the House.

THURSDAY, Sept. 17.

Mr. GOODHUE, from the committee appointed for the purpose, presented a bill to amend part of the Tonnage act, which was read the first time.

The bill sent from the Senate, for the temporary establishment of the Post-Office, was read the second and third time, and passed.

The bill for establishing the Judicial Courts of

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 17, 1789]

the United States was read the third time and passed.

Mr. BOUDINOT, from the committee appointed for the purpose, presented a bill to recognize and adapt, to the Constitution of the United States, the establishment of the troops raised under the resolves of the United States in Congress assembled, which was read a first and second time, and referred to a committee of the whole House.

Ordered, That the Secretary of the Treasury do report to this House an estimate of the sums requisite to be appropriated, during the present session of Congress, towards defraying the expenses of the Civil List, and of the Department of War, to the end of the present year; and for satisfying such warrants as have been drawn by the late Board of the Treasury, and which may not heretofore have been paid.

Mr. BURKE, from the committee appointed for the purpose, presented a bill for allowing certain compensation to the Judges of the Supreme and other Courts, which was read the first and second time, and ordered to be referred to a committee of the whole House to-morrow.

Ordered, That the Committee of Ways and Means be discharged from farther proceeding on the business referred to them, and that it be referred to the Secretary of the Treasury, to report thereon.

SEAT OF GOVERNMENT.

The House then resolved into a Committee of the whole, on the bill to establish the Seat of the Government of the United States, Mr. BOUDINOT in the Chair.

Mr. VINING moved to strike out the first paragraph of the bill, in order to insert one to this effect: "That a district of ten miles square, comprehending the borough of Wilmington, in the State of Delaware, to be located, as hereafter directed, should be selected as the Seat of Government of the United States, until a more eligible place shall be fixed upon for the permanent seat; and that measures should be taken to accommodate Congress with that district, as soon as conveniently might be; provided, that no session be accepted till acts should be passed by the States of Maryland and Pennsylvania, to open a water communication between the Chesapeake and Delaware."

This motion was negatived, being 23 for, and 28 against it.

Mr. GALE then moved to amend the first clause, by adding the following: "That no district be accepted, as aforesaid, until the President of the United States shall be satisfied of the practicability of effecting a navigation, from the Seat of Government to the mouth of the said river; and that this law shall not be carried into effect, until the States of Pennsylvania and Maryland shall pass acts (not including any expense to the said States,) providing for removing the obstructions of the same."

Mr. HARTLEY was not well acquainted with the navigation of the Susquehanna at the Maryland line, but, from his knowledge of the other

part of the river, and the inference from the works carrying on above Havre de Grace, he was led to believe the navigation practicable at a small expense. Indeed, without the improvements which art might bestow, he believed it navigable. As a reason for this opinion, he mentioned the circumstance of Mr. WILLIAM TENNET going down, and returning with a ton of iron to the mouth of the Codorus but a short time since.

The Legislature of the State of Pennsylvania had declared the Susquehanna a highway; consequently it was in the power of companies formed and forming, to remove every impediment to the navigation. If there was no doubt of the practicability of the navigation, and he assured the committee there was none, of what use was it to adopt the clause? He hoped gentlemen did not mean to throw unnecessary embarrassments in the way, and their candor, he trusted, would induce them to relinquish a proposition which had no other tendency.

Mr. MADISON—If the observations made by the gentleman last up have the weight which he wishes them, I am sure they ought to produce an unanimous concurrence to the proposition of the gentleman from Maryland. Whatever diversity of opinion may exist with respect to the merits of the main question, I trust we shall all agree, that our decision ought to be as much in favor of the interest of the United States as we have in our power to make it; and this will be done by securing a communication with the Atlantic navigation. The gentleman tells us, that there is no doubt of the practicability of opening the navigation of the Susquehanna; if so, ought we not to make it a condition of our fixing on that river? I can see no reasonable objection therefore, to the motion. It is possible the State of Pennsylvania may refuse her concurrence; this would defeat our object, if the practicability was ever so apparent; it is certainly prudent in the United States to guard against such a contingency. If Pennsylvania will agree, we do no injury to her by making it a condition; if she would not agree, would it not argue a great inattention, and want of prudence in us to put our best interest so much in her power? So that viewing the question on either side, it is proper to be adopted.

Mr. STONE observed, that the weight of the arguments turned upon the practicability of this navigation; if now, it should be found that these arguments were grounded upon what is not the fact, it will be an insuperable reason against Congress fixing on that river; whereas, if the gentleman's observations were well founded, and he had no doubt but they were, as the gentleman lived in the neighborhood of the Susquehanna, the navigation would be found practicable, and Congress would go there of course: but what good reason could be adduced against securing to the General Government the power of removing the obstacles to the navigation?

As to what had been said of making the river a highway, it was of no importance; for he sup-

SEPTEMBER 17, 1789.]

Permanent Seat of Government.

[H. OF R.]

posed all navigable rivers were highways from their nature; but this gave no right to a company to erect works for clearing the obstructions. He observed, that this was the idea entertained by the Legislatures of Maryland and Virginia, who had entered into positive laws, empowering a company to erect such works, and receive toll for their indemnification.

Mr. CLYMER supposed that gentlemen were not acquainted with the practice of the State of Pennsylvania; rivers there are not public highways until they are declared so by law, before which the navigation might be obstructed by milldams or other works erected upon the stream; all which must be removed when a river is declared a public highway. Formerly that State was jealous of the trade going out of her hands by the Susquehanna; but a different policy has lately prevailed, and she has evinced a ready disposition to join with the neighboring States in clearing out the bed of the river, or by other means improving the navigation; so that the object of the proviso, so far as it depended upon Pennsylvania, is already accomplished; and it would be improper to make our removal to the Susquehanna depend upon the consent of another State whose interest it might be to oppose it.

Mr. LEE looked upon the clause as a very proper one, and as consistent with the principles laid down by the House, for the communication of the Western Territory with the Atlantic ocean.

Mr. JACKSON inquired, whether the State of Pennsylvania had not the power to repeal that law which declared the Susquehanna to be a public highway? If they had it, and he did not doubt but what they possessed it, what would become of Congress when they are fixed upon the banks of that river, secluded from the world and totally cut off from a water communication with the Atlantic? He asked whether it would be prudent for the General Government to subject itself to such inconveniences, when they had it in their power to make their own terms?

Mr. FITZSIMONS wished gentlemen to consider whether it was absolutely necessary to have a water communication with the Atlantic ocean and the Western Territory? For his part, he had never understood it to be absolutely necessary, nor did the preamble to the resolution, adopted by the House some time ago, warrant such a proposition.

Mr. GALE doubted whether the obstructions could be removed out of the Susquehanna; indeed, he understood from a gentleman who was well acquainted with that river, that it never could be made navigable. He thought this point ought to be ascertained before Congress fixed themselves there.

Mr. SCOTT presumed the gentleman alluded to some conversation that had passed out of doors, but he appeared to misconceive it. He had said, that it was next to impossible to remove all the obstructions in the navigation of that river: he was still of the same opinion, if it

was understood that it should be navigated by large ships; but if gentlemen would be satisfied with a navigation by canoes, or even large boats, he believed such a navigation practicable.

He expressed his obligation to the gentlemen who were so desirous of accommodating the inhabitants near the Susquehanna with a ready road to market; but he did not think it a continental concern, whether they sold the produce of their labor at Philadelphia or Baltimore.

He was surprised at gentlemen for insisting upon absolute water communication with the Atlantic. Did they expect that Congress must be supplied with what they wanted by that means? Could not a land carriage of thirty miles be as commodious as fifty miles of water carriage against a rapid stream? He could not see any advantage which Congress were to reap from this scheme; but he could discover the benefit which would result to Maryland from opening the navigation. If Congress meant to interfere, and give a preference to the Baltimore market over the Philadelphia, they had better do it openly and fairly, than in this covert manner.

Mr. STONE desired the question to be divided, in order to take the sense of the committee on each part separately.

Whereupon, the proposition was divided at the word river, and the sense of the committee given against it; there being 25 for, and 29 opposed to its adoption.

The question was then put on the second part, and the committee divided, 27 and 27. It then lay with the Chairman to decide, which he did by giving his vote in the affirmative.

The committee then went through the bill, and after agreeing to it, reported it with an amendment.

The House adopted the amendment, and Mr. GALE proposed to insert the words "or Maryland," so that it might be in the discretion of the commissioners to fix upon the banks of the Susquehanna, either in Maryland or Pennsylvania.

Mr. FITZSIMONS inquired of the gentleman what part of the state of Maryland, lying on the Susquehanna, was fit for a Federal town?

Mr. GALE could not tell precisely, but he apprehended some place near the tide-water might be found.

Mr. HARTLEY was sorry to trouble the House so often; but he could not restrain himself when he conceived gentlemen were aiming to throw embarrassments in the way of the bill. He called upon gentlemen to show the propriety of the amendment, by mentioning a spot fit for the seat of Government of Maryland, upon the banks of that river? The Maryland line is about twenty-five miles below Wright's Ferry, and ten or twelve above tide-water; a place exposed to the depredation of hostile nations. If this consideration is of no weight, we had better stay where we are, or seek a more central commercial city. He trusted gentlemen would not throw all they

H. OF R.]

Compensation of the Judiciary.

[SEPTEMBER 18, 1789.]

had hitherto done into confusion again, by adopting amendments of this nature.

On the question, the House divided equally, 27 and 27; and it lay with the Speaker to determine, which he did by giving his vote in the negative.

On motion, the further consideration of the bill was postponed, and the House adjourned.

FRIDAY, September 18.

Mr. HEISTER, from the committee appointed for the purpose, presented a bill making provision for the invalid Pensioners of the United States, which was read a first time.

The bill to amend part of the Tonnage act was read the second time, and ordered to be engrossed and read the third time to-morrow.

On motion,

Resolved, That it be the duty of the Secretary of State to procure, from time to time, such of the statutes of the several States as may not be in his office.

This resolution was sent to the Senate, and shortly after returned with their concurrence.

The House proceeded to consider the report of the committee to whom it was referred to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of the said State, on Continental and State establishments, in the cession made by the said State to the United States, of the territory north-west of the river Ohio.

Whereupon, it was

Ordered, That the further consideration of that report be postponed until the next session of Congress.

COMPENSATION OF THE JUDICIARY.

The House then resolved itself into a Committee of the whole, on the bill for allowing a compensation to the Judges of the Supreme and other Courts, and to the Attorney General of the United States. Mr. BOUDINOT in the chair.

Mr. GOODHUE moved to strike out four thousand five hundred dollars, the proposed salary of the Chief Justice, in order to reduce it.

Mr. BURKE had been opposed to this sum when he was in the select committee that brought in the bill, but a majority was against him there, and so it was adopted. He, however, still maintained his former opinion.

Mr. LAWRENCE had been on the committee alluded to by the gentleman; he was then in favor of four thousand five hundred dollars, and was so still. He did not, he said, think it was too much, considering the very important nature of the duties assigned to that officer, and the high trust committed to his care. The laws and the constitution of the United States are committed into his hands. We are to look for decisions on the most interesting points to the Judges of the Supreme Court; and on their decisions depend causes of the greatest possible magnitude.

The sum proposed he did not think would be considered too high; there is a predilection among the people in favor of their Judges; it is the general opinion, that they should be well paid. This sentiment is honorable to the people; it is productive of the happiest effects, and ought to be encouraged. He was willing, he said, to risk his popularity, by voting for that sum; he did not think it would be considered too high; and would rather be for increasing, than diminishing it. When we consider what is paid to similar officers in other countries, we find that these salaries bear no proportion to their allowances. To induce gentlemen of the first abilities to come forward, and to place them in that situation which shall be above temptation, you cannot give them a less sum. It will be of very little consequence, whether the Judges hold their seats during good behavior, if you do not make them independent in their salaries. He, therefore, hoped the sum would not be struck out.

Mr. GOODHUE said, he did not think there was any propriety in referring to other countries for examples on this occasion, circumstances did not apply. We must have a regard to the ideas of our own people, and the situation of our own country; and the only inquiry, in his opinion, was, what has been customary, and what may be necessary in the present case? He then referred to the salaries which are given in particular States; and though, in some instances, they are below what they ought to be, yet they command the first abilities. The sum proposed in the bill is so much beyond all example in any of the States, that it will be considered beyond the abilities of the people. The grants we have already made are in general so high, and will excite so much uneasiness, that he was in hopes they would not have proceeded one step further in that line of policy. He wished the motion might obtain.

Mr. BENSON said, that an ample allowance was necessary, in order to command the first abilities. There was no doubt, he observed, but plenty of candidates might be found, who would serve for fifteen hundred dollars, or for a less sum. Instances may be mentioned of persons offering to serve as Governor, in some of the States, for five hundred dollars; but if it is intended to have the office respectable, by its being filled with men of competent abilities, a less sum than that proposed will not be found adequate.

Mr. AMES said, he had frequently heard in the House abstract reasonings upon the subject of salaries and compensations; but, for his part, he thought such reasonings had very little to do in the business. The only inquiry was, what sum would be necessary to command the first abilities in the respective States? The gentlemen, from various quarters, may determine, with a great degree of precision, for themselves; he thought he could speak for the four New England States; and supposed that fifteen hundred dollars per annum, for this officer, would

SEPTEMBER 18, 1789.]

Compensation of the Judiciary.

H. OF R.

be an object sufficient to excite the attention of men of the first abilities in those States.

Gentlemen might be found, he said, who would use the greatest exertions to qualify themselves for the office. He, therefore, hoped the motion for striking out the sum would obtain.

Mr. LIVERMORE was clearly of opinion, that these officers ought to receive a compensation for their services; and this he took to be the true data from whence to determine what would be a proper allowance. If the committee consider it in this point of view, they would inquire what was the business which the Federal Judges would have to perform? He had endeavored to fix this in his own mind, and from the considerations that had occurred to him, he was led to conclude, that their duty would not be a fourth part of what was attached to the State Judiciaries: Hence the inference was, that they ought to be satisfied with salaries much lower than those proposed in the bill.

Mr. VINING was in favor of the sum mentioned in the report. He stated the amount of the whole expense to be incurred, and contrasted it with the benefits to be derived to the United States from the institution. The object, he said, was to attract and command the first abilities. There are many gentlemen in the practice of law, whose abilities command a greater income than three thousand dollars per annum. Can it be expected that such persons will relinquish their lucrative professions, merely for serving the United States? It cannot be expected; and yet, he presumed, the very first abilities were the objects to be obtained.

Mr. GERRY approved of the motion. He enumerated the debts, taxes, and burthens of the people; from whence he urged the necessity of the utmost prudence and economy in the expenditures and appropriations. He referred to the situation of Great Britain, and contrasted our circumstances with theirs. He said the salary of the Chief Justice ought to be about four hundred pounds sterling. He referred to what had been said respecting the incomes of lawyers; and said, he believed, where there was one who got three thousand dollars a year by his practice there were twenty who did not get one-third of that sum. He conceived that a much less sum than that proposed would command the first abilities on the continent. He would ask gentlemen, if the State Judges were men of inferior character? Yet they served for much less pay than what is now proposed.

Mr. JACKSON said, he did not doubt the truth of what the gentleman mentioned respecting the lawyers. But he would ask, if Judges of the Supreme Court of the United States were to be taken from the lowest class of lawyers? There was no doubt, he said, but that Judges might be obtained for five hundred pounds, but what kind of law? What kind of decisions would you get from such Judges? There are lawyers in some of the States, who make from

fifteen hundred to two thousand guineas a year by their great abilities. Will such men relinquish their emoluments for the honor of serving the United States?

I have received some accounts from the southward, by which I find, that gentlemen are declining public appointments, on account of the smallness of the salaries. We ought to consider the great importance of this officer; that the lives, the properties, and rights of the citizens are to depend on his decisions; that the preservation of the constitution of the United States, and of the individual States, depends, in a great measure, on the wisdom, impartiality and independency of this officer; and, in cases of impeachment, the President of the United States is to be tried by him; all the great appeals, and matters of treaty, are subjected to his decision. From these considerations, the first abilities should be procured; and ample and generous allowance ought to be given, so that every possible inducement to an undue bias and influence may be taken away.

Mr. PAGE had no doubt but the first characters would be attained to fill these very important offices; but he feared that a low salary would render them less independent than they ought to be. Gentlemen would make more at the bar, than they would make on the bench, which would prevent the most eminent from offering themselves. He feared this from the situation of the Judges in Virginia. They were formerly allowed five hundred pounds per annum; but, in the rage for reducing salaries, they were lowered to three hundred pounds. It was very questionable, if the present Judges were to fall off, whether they could renew the bench with men of equal characters. He feared this rage for reducing salaries; it was supposed, by many, to be republican, but he entertained a different opinion; and doubted not but experience would sorrowfully demonstrate, that low salaries are anti-republican; that, as you reduce your officers to scanty allowances, you depreciate the Government, and when the day of trouble arrives which tries men's souls we shall lament the want of firmness and vigor in those who fill the Judiciary of the United States.

Mr. SMITH (of South Carolina) was against reducing this sum. He adverted to the circumstance of raising the salaries of the Judges in England, at the accession of the present King, from the idea of rendering them more independent than they had been. He then stated the amount of their salaries, and the situation of the people in that country, in respect to public burthens.

He then referred to the salaries of the Judges in several of the States; and pointed out the proportion of the expense which the Judiciary of the State of South Carolina bore to the amount of their Civil List, and made it one-third; whereas, the Judiciary of the United States would not amount to one-eighth. He pointed out the necessity of holding out such

inducements as would influence the first abilities to accept of the appointment; and urged the importance of making the Judges independent. The Judicial department he considered to be the sheet anchor of the Constitution; a department of the first consequence to the Union; a department, which, in all civilized countries, is placed in an eligible and independent situation.

Mr. MADISON said, he did not wish to trouble the committee with a recapitulation of observations respecting the first abilities; but he would observe, that it ought to be considered, that these Judges must make a new acquisition of legal knowledge. They must have a familiar acquaintance with the laws of every State; they must understand the nature of treaties, and especially the treaties now subsisting between these States and foreign countries. These studies will absorb a great deal of their time.

When we consider the duties that will devolve upon them, they strike the mind as being of the greatest magnitude: they are the guardians of the Laws and of the Constitution of the United States, and, I trust, of the individual States also.

When we consider the great and important causes, in which opulent individuals will be parties, that are to come under their cognizance, we must be struck with the propriety of shielding these Judges from all possible assaults of temptation: to these, if we add, important cases of treaties, in which the greatest interests will be involved, the idea will receive additional force. Upon the whole, considering the circumstances of the people, he said, he should disagree to the sum proposed by the committee; but, at the same time, should not agree to the proposed reduction.

On the question for striking out 4500, it was carried in the affirmative. It was then proposed to fill the blank with 4000, which was agreed to.

After going through the bill, and making alterations in almost every salary, upon the foregoing principles, the committee rose, and reported the bill as amended.

After which the House adjourned.

SATURDAY, September 19.

The engrossed bill for amending part of the act to regulate the collection of the duties, was read the third time and passed.

A bill, making provision for the invalid Pensioners of the United States, was read the second time.

A message from the Senate informed the House, that they had passed an act to regulate recesses in the courts of the United States, to which they request the concurrence of the House; also, that they agree to some, and disagree to others, of the amendments proposed by this House to the bill for establishing the Judicial Courts of the United States.

Mr. PARKER, from the committee appointed for the purpose, presented a bill concerning the

importation of certain persons, prior to the year 1808, which was read the first time; and, on motion, ordered, that the further consideration of the said bill be postponed until the next session of Congress.

The House then took into consideration the amendments to the Constitution, as amended by the Senate; and, after some time spent thereon, the business was postponed till tomorrow.

The House then proceeded to consider the amendments reported yesterday, by the committee of the whole, to the bill allowing compensation to the Judges and Attorney General, when the salary of 4000 dollars to the Chief Justice, agreed to yesterday by the committee of the whole, was reduced to 3500; and some other similar alterations were made, when it was ordered, that the bill be engrossed; and, after some time, the bill was read a third time and passed the House. Adjourned.

MONDAY, September 21.

A message from the Senate informed the House, that they recede from their amendment to the bill for allowing compensation to the President and Vice-President of the United States; that they have also passed the Judges, Compensation bill, with several amendments; to which they request the concurrence of the House.

The House then proceeded to consider the amendments:

Whereupon, *Resolved*, That this House agree to the first, second, and third amendments; and disagree to the fourth amendment of the said bill.

Another message from the Senate was received, informing the House, that they have agreed to the following resolution; to which they desire the concurrence of the House.

Resolved, That it be recommended to the Legislatures of the several States, to pass laws making it expressly the duty of the keepers of their gaols, to receive, and safe keep therein, all prisoners committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof; under the like penalties, as in case of prisoners committed under the authority of such States respectively; the United States to pay for the use, and safe-keeping of such gaols, at the rate of fifty cents per month, for each prisoner, that shall, under their authority, be committed thereto, during the time such prisoners shall be therein confined; also, to support such of said prisoners, as shall be committed for offences.

The said resolution being twice read, was agreed to by the House.

A bill making appropriations for the service of the present year, was read a second time, and ordered to be referred to a committee of the whole House tomorrow.

The House then proceeded to consider the report of the committee upon the petition of the Baron de Glaubeck:

Whereupon, it was

Resolved, That the Baron de Glaubeck be allowed

SEPTEMBER 21, 1789.]

Permanent Seat of Government.

[H. OF R.]

the pay of a Captain, from the ninth day of March, 1781, to the twenty-fourth day of August, 1782, having undertaken the command thereof at the request, and by order of the Commander-in-chief of the Southern Army.

Another message was received from the Senate, informing the House, that the Senate recede from their fourth amendment to the Judges and Attorney General's compensation bill; also, from their third amendment to the Constitution of the United States; and do insist on the other amendments to the said articles disagreed to by the House; and that they have agreed to a conference on this subject.

The House then proceeded to consider the report from the committee, on the memorial and petition of the public creditors of Pennsylvania; after which, they came to the following resolutions:

Resolved, That this House consider an adequate provision for the support of public credit as a matter of high importance to the national honor and prosperity.

Resolved, That the Secretary of the Treasury be directed to prepare a plan for that purpose, and to report the same to this House at its next meeting.

On motion, it was then ordered, that the Secretary of the Treasury be directed to apply to the Supreme Executives of the several States, for statements of their public debts—of the funds provided for the payment, in whole, or in part, of the principal and interest thereof; and of the amount of the loan-office certificates, or other public securities of the United States, in the State Treasuries respectively; and that he report to the House such of said documents as he may obtain, at the next session of Congress.

The House then proceeded to reconsider such of the amendments to the Judiciary bill, as had been disagreed to by the Senate; and adopted them without debate.

The report of the Secretary of the Treasury on the necessary appropriations for the current year was received, read, and referred to Messrs. WADSWORTH, SMITH, (of Maryland,) and SMITH (of South Carolina.)

The House then resumed the consideration of the amendments proposed by the Senate to the several articles of amendments to the Constitution of the United States; some of which they agreed to, and disagreed to others, two-thirds of the members present concurring in each vote; whereupon, a committee of conference was desired with the Senate, on the subject matter of the amendments disagreed to; and Messrs. MADISON, SHERMAN, and VINING were appointed managers on the part of the House.

MR. JACKSON moved for leave to bring in a bill to alter the time of the annual meeting of Congress; this motion was agreed to.

SEAT OF GOVERNMENT.

And then the House proceeded to consider the bill to establish the seat of Government of

the United States, which lay on the table, with the amendments, as reported by the committee of the whole House.

MR. SMITH proposed to confine the choice of a situation on the banks of the Susquehanna, between Checkiselongo creek and the mouth of the river. He was seconded by MR. SENEY.

MR. HARTLEY hoped the committee would limit it as near the spot contemplated as possible.

MR. HEISTER said, he moved, the other day, for a particular spot on the river, which he conceived entitled to a preference; if the proposed motion obtained, that place would be excluded, and he should hesitate respecting his vote upon the bill.

MR. SENEY by no means wished to embarrass the committee; if the motion proposed would, any how, have that effect, he should withdraw his second.

MR. MADISON felt himself compelled to move for striking out that part of the bill which provided that the temporary residence of Congress should continue at New York; as he conceived it irreconcilable with the spirit of the Constitution. If it was not from viewing it in this light, he should have given the bill no further opposition; and now he did not mean to enter on the merits of the main question.

From the Constitution, it appeared that the concurrence of the two Houses of Congress was sufficient to enable them to adjourn from one place to another; nay, the legal consent of the President was, in some degree, prescribed in the 7th section of article 1st, where it is declared, that every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States, and approved by him, before the same shall take effect. Any attempt, therefore, to adjourn by law, is a violation of that part of the Constitution which gives the power, exclusively, to the two branches of the Legislature. If gentlemen saw it in the same light, he flattered himself they would reject that part of the bill; and, however little they valued the reflection that this city was not central, which had been so often urged, they would be guided by arguments springing from a superior source.

He would proceed to state the reasons which induced him to be of this opinion; it is declared in the Constitution, that neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting; from hence he inferred, that the two Houses, by a concurrence, could adjourn for more than three days, and to any other place which they thought proper; by the other clause he had mentioned, the Executive power is restrained from any interference with the Legislative on this subject; hence, he concluded, it would be dangerous to attempt to give to the President a power which the Consti-

H. of R.]

Permanent Seat of Government.

[SEPTEMBER 21, 1789.]

tution expressly denied him. He did not suppose that the attempt to vest the Executive with a power over the adjournment of the Legislature would absolutely convey the power, but he conceived it wrong to make the experiment. He submitted it to those gentlemen who were attached to the success of the bill, how far an unconstitutional declaration may impede its passage through the other branch of the Legislature.

It has been supposed, by some, that the seat of Government may be at a place different from that where the Congress sits; and, although the former may be established by law, the Legislature might remove elsewhere; he could not subscribe to this doctrine. What is the Government of the United States for which a seat is to be provided? Will not the Government necessarily comprehend the Congress as a part? In arbitrary Governments, the residence of the monarch may be styled the seat of Government, because he is within himself the supreme Legislative, Executive, and Judicial power; the same may be said of the residence of a limited monarchy, where the efficiency of the Executive operates, in a great degree, to the exclusion of the Legislative authority; but in such a Government as ours, according to the legal and common acceptance of the term, Government must include the Legislative power; so the term Administration, which in other countries is specially appropriated to the Executive branch of Government, is used here for both the Executive and Legislative branches; we, in official communications, say Legislative Administration or Executive Administration, according as the one or the other is employed in the exercise of its constitutional powers. He mentioned these circumstances to show, that they ought not to look for the meaning of terms used in the laws and constitution of the United States, into the acceptance of them in other countries, whose situation and Government were different from that of United America. If his reasoning was just, he should conclude that the seat of Government would be at that place where both the Executive and Legislative bodies were fixed; and this depended upon the vote of the two branches of the Legislature. There was another clause favorable to this opinion; it was, that giving Congress authority to exercise exclusive Legislation in all cases whatsoever over such district as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States; this was the only place where any thing respecting the seat of Government was mentioned; and would any gentleman contend that Congress might have a seat of Government over which they are empowered to exercise exclusive Legislation, and yet reside at the distance of 2 or 300 miles from it? Such a construction would contradict the plain and evident meaning of the constitution, and as such was inadmissible.

He hoped these observations would be attended to; and did not doubt but if seen in their

true light they would induce the House to reject that part of the bill which he moved to have struck out.

Mr. SHERMAN acknowledged that Congress possessed the power of adjournment as it respected time and place, independent of the President; but he conceived there was a propriety in declaring where the seat of Government should be by law, in order that those officers who were called upon by the constitution to be present at the seat of Government might know where to repair. He admitted that Congress, notwithstanding this declaration in the law, might adjourn to some other place.

Mr. PAGE would inquire where was the necessity of adherence to a clause which its warmest advocates must allow had no binding force as it related to its main object, namely, the continuance of the two Houses to sit in this city?

Mr. LAWRENCE was in hopes that the opposition to the bill had ceased, at least he did not expect that arguments of this kind would be brought forward at this time. The gentlemen who opposed the clause, declaring the temporary residence to be at New York, as contrary to the constitution, urged nothing against it when it was severally proposed to be at Wilmington and Philadelphia; if he did not mistake, the gentlemen voted in favor of those places. From hence he was led to believe that a legal declaration on this point was not at that time unconstitutional, even in their opinion; and if it would have been proper with respect to one place, he could not think it improper as it respected another.

But he was induced to make this declaration, in order to give operation to some of the laws they had already passed. The law establishing the Judicial Courts of the United States made it the duty of the Judges to hold the Supreme Court at the seat of Government: how are they to discover where the seat of Government is unless it be declared? And admitting that the seat of Government is defined best by being at the place where Congress deliberates, how will it be ascertained if we should happen not to be in session? And this may be the case, for leave is already given to alter the time of our annual meeting, and how far that period may be extended into the ensuing year is altogether unknown.

The honorable gentleman from Virginia (Mr. MADISON) tells us, that Congress have a right to adjourn, by concurrence, to where they please, and that their presence makes the seat of Government; yet, at the same time, he is an advocate for fixing a permanent seat of Government; there is surely some inconsistency in these ideas. Although Congress shall have fixed a permanent seat of Government, they retain the power of removing to where they think proper; hence, if they remove from their permanent seat, there becomes two seats of Government; now, which is the one that will have a legal operation, as it respects those who are to transact business at the seat of Government? Here is nothing to restrain them in this instance more than in the other; so that his arguments apply

SEPTEMBER 21, 1789.]

Permanent Seat of Government.

[H. OF R.]

with equal force against both permanent and temporary residence.

But he did not think the presence of the Legislature was an absolute condition of any place being the seat of Government. If that doctrine was true, this city would, or would not, be the seat of Government, as Congress was in session or in recess. This was an idea teeming with inconveniences; he supposed the other construction the more rational, as that the seat of Government was determined by the residence of the Executive, the great officers of Government, the Judges, and the foreign ministers, public archives, &c. The Legislature might find it convenient to sit at some other place, without obliging all the suite of the Government to remove with them. If this was the true construction, the majority of the Senate and House of Representatives would have it in their power to repeal the Judicial bill, or what amounted to the same thing, defeat its execution, independent of the power of the President, by removing from place to place, so that the Judges could not follow them to hold the Supreme Courts; or they might adjourn, and, by their adjournment, annihilate the seat of Government, where only those courts could be held.

Mr. MADISON begged leave to explain. The gentleman last up had charged him with inconsistency, as it respected his former vote and present observations. He would insist that he might have voted in the manner expressed, and yet have been perfectly consistent; because, when an objectionable clause is under consideration, it becomes proper for its opponents to agree to every thing they conceive to be an amendment, in order that if the proposition passes it may pass in the least imperfect form.

It has been said, that the Supreme Courts must be held at the seat of Government. True; but the Judges will know where they are to meet without this declaration; for the common acceptance of the word will lead them to hold the sitting of the court in the city of New York. He could not, as an American, with an eye to the American constitution and the American language, separate the Legislative Power from that of the Government; it appeared to him, to be the most essential part of any free Government, but much the most extensive and essential in the Government of the United States.

Mr. AMES was of opinion, with the gentleman from New York, (Mr. LAWRENCE,) that the objection went equally against the permanent and temporary residence of Congress; but he believed the gentleman from Virginia meant to confine himself to what he had stated, namely, that the measure was unconstitutional. He admired the abilities of the honorable gentleman, and doubted not but the constitution was the better in consequence of those abilities having been employed in its formation; but he was not disposed to pay implicit deference to that gentleman's expositions of that instrument. There were but few on this floor who were in

Convention, and who could say what was the intention with which every clause was inserted. He was content to take it as he found it; and could say with the gentleman, as an American, with an eye to that constitution, the language of liberty in his mouth, and the love of it in his heart, he hoped it would never be considered, either within or without these walls, that the two Houses of Congress are the Government of the United States. He contemplated this Government as a government of laws, and not of men. The makers of them could command nothing as to themselves; the Executive, with the Judges, were those who exercised the authority of the law, and to them the term most properly applied; but he would not descend minutely into this inquiry; he trusted the inconsistency of the idea was so apparent as to induce the gentleman to give it up.

He stated, that the seat of Government must depend upon the circumstances mentioned by the gentleman from New York, or upon a law. Without it was the case, that the seat of Government was fixed and known, how could the Supreme Courts be held? Or how could the electors of the President transmit their votes sealed to the seat of Government, as required by the Constitution?

Mr. MADISON contended that the words in the Constitution, alluded to by the gentleman, supported his construction. It declared that the electors should transmit their votes sealed to the seat of Government of the United States, directed to the President of the Senate; that the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the votes, &c. The Senate appear from this to be a part of the Government; and their residence, with that of the House of Representatives, is supposed to be the seat of Government.

He did not mean to insinuate, as the gentleman had seemed to suppose, that the two Houses of Congress were the Government; but that the Legislative powers of the two Houses formed a part of the Government of the United States.

Mr. SMITH, of South Carolina, had attended to the arguments, and was clearly of opinion that the seat of Government ought to be fixed by law; that required the consent of the President, as well as of Congress; they alone were but one-third of the Government, and not even that complete, for the Executive held a qualified negative over their Legislative authority. He thought gentlemen ought to attend to the convenience and policy of the measure, for he was persuaded that it was perfectly constitutional; and, in this point of view, they ought to consider the situation of foreign ministers and others, who might have business to transact with any branch of the Government.

Mr. LEE was convinced the clause was unconstitutional, but if it was not, it was unnecessary. The late Congress fixed this city the seat of Government of the United States; they appointed

H. OF R.]

Permanent Seat of Government.

[SEPTEMBER 22, 1789.]

the present Government to meet here, and, by so doing, made it the seat of Government; it will retain this property until Congress shall adjourn to meet elsewhere, after which it loses it as a matter of course. Where, then, is the use of attempting to renew the establishment by law? It is not pretended that the law will prevent Congress from adjourning elsewhere; then what effect can it have in favor of the city it is intended to secure?

Mr. JACKSON had been against the bill from the beginning, and had fairly and openly opposed it; but since it had been carried against him upon full debate, he would acquiesce in the decision of the House, conceiving it to be the voice of his country. He thought the present objection, as to its constitutionality, not well founded; but, if it is well founded, it went against the whole bill. It had been said the clause was unnecessary; he believed, if it did no good, it did no harm; and, as it was so far approved of, he would give it his vote.

Mr. BOUDINOT conceived the objection to be well founded; and expected, as it was running a risk of losing the whole bill, on account of a doubtful clause, the friends to the permanent seat would concur in striking it out.

Mr. HEISTER said, as there were doubts entertained of its constitutionality, he would vote against the clause; moreover, New York was so uncentral, that he could not consider it as the proper place for even the temporary seat of Government.

The question on striking out the clause was put, and passed in the negative; twenty-three for, and twenty-nine against it.

Mr. MADISON proposed to strike out the word "permanent" as unnecessary, and a term unknown to the constitution.

The question being put thereon, it passed also in the negative—twenty-four for, and twenty-eight against it.

The bill was then agreed to, and ordered to be engrossed and read a third time to-morrow. After which the House adjourned.

TUESDAY, September 22. SEAT OF GOVERNMENT.

The engrossed bill to establish the seat of Government of the United States was read a third time; and the question was, Shall this bill pass?

Mr. CARROLL said, he felt himself under peculiar circumstances on the decision of this important question. The House had determined that the permanent seat of the Government of the United States should be on the Susquehanna, in Pennsylvania, and not in Maryland on the Potomac. It was his opinion that the last would have been most conducive to the interest of the Union; the voice of the majority of this House is against it. The Susquehanna, said he, being the next object most likely to attain what I have laid down as the rule of my conduct on this occasion, and, at the same time,

must be agreeable to the wishes of a great part of my constituents, I felt myself under an obligation to vote for the Susquehanna, upon obtaining the clause which made it obligatory upon the States of Maryland and Pennsylvania to concur in opening the navigation of that river; and nothing would restrain me from giving my assent to the bill, but that clause which requires the concurrence of the President respecting the seat of Government, until Congress meet at their permanent seat. To this clause I have strong constitutional objections; they were yesterday fully stated to this House by other gentlemen.

I have endeavored to remove this conviction from my mind, in order to give my assent to the bill; but as I am under the sacred obligation of an oath to support the constitution, as I cannot efface the conviction from my mind that it is contrary to the Constitution, and as we could not succeed in striking out the clause, I feel myself under the disagreeable necessity of giving my dissent to the bill.

The yeas and nays, on passing the bill, being required by one-fifth of the members present, were as follows:

YEAS.—Messrs. Ames, Baldwin, Benson, Clymer, Contee, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Jackson, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Wadsworth, and Wynkoop.—31.

NAYS.—Messrs. Bland, Boudinot, Burke, Cadwalader, Carroll, Coles, Lee, Madison, Matthews, Moore, Parker, Schureman, Smith, (of South Carolina,) Sumter, Tucker, Vining, and White.—17.

The bill having passed, was sent to the Senate for their concurrence.

The bill to alter the time for the annual meeting of Congress was read the second time, and ordered to be referred to a Committee of the whole House this day.

The House resolved itself into a Committee of the whole on the bill to recognise and adapt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, Mr. BOUDINOT in the Chair; and, after some time spent in considering the same, the committee rose and reported that they had the said bill under consideration and made several amendments thereto, which were twice read and agreed to by the House.

It was then ordered that the said bill, with the amendments, be engrossed and read the third time to-morrow.

A message from the Senate was received, informing the House, that they had agreed to the order passed in this House this morning, rescinding the order of the 25th of August, for the adjournment of both Houses on this day; and directing that the President of the Senate and Speaker of the House do close the present session, by adjourning their respective Houses on the 26th instant.

SEPTEMBER 24, 1789.]

Amendments to the Constitution.

[H. OF R.]

It was ordered, that leave be given to bring in a bill, to explain and amend the act for registering and clearing vessels, and regulating the coasting trade; Messrs. BLAND, BENSON, and GOODHUE were appointed to prepare and bring in the same. Adjourned.

WEDNESDAY, Sept. 23.

The engrossed bill for recognising and adapting to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, was read the third time and passed the House.

The House resolved itself into a committee of the whole on the bill making appropriations for the service of the present year; Mr. BOUDINOT in the Chair; and after some time spent in considering the same, the committee rose and reported that they had, according to order, had the said bill under consideration, and made an amendment thereto; which being twice read, was agreed to by the House; and the bill was ordered to be engrossed, with the amendment, and read the third time to-morrow.

Mr. BLAND, from the committee appointed for the purpose, presented a bill to explain and amend the act for registering and clearing vessels and regulating the coasting trade, which was read the first and second time, and ordered to be engrossed and read the third time to-morrow.

The House resolved itself into a Committee of the whole on the bill to alter the time for the annual meeting of Congress, Mr. BOUDINOT in the Chair; and after some time being spent in considering the same, the Committee reported, that they had had the said bill under consideration, gone through the same, and made several amendments thereto; which were twice read, and agreed to by the House.

The said bill, with the amendments, were ordered to be engrossed and read the third time to-morrow.

The House then resolved itself into a Committee of the whole House on the bill to regulate processes in the courts of the United States, Mr. BOUDINOT in the Chair; and after some time spent therein, the committee rose and reported progress. Adjourned.

THURSDAY, Sept. 24.

The two following engrossed bills were read the third time and passed, to wit, the bill to explain and amend an act for registering and clearing vessels, and regulating the coasting trade, and the bill to alter the time for the annual meeting of Congress.

The engrossed bill making appropriations for the service of the present year being read the third time, was ordered to be recommitted to a Committee of the whole House this day.

A committee was appointed to ascertain the amount of the compensations due to the members of this House respectively, and of the sev-

eral officers thereof, together with the contingent expenses of the session; consisting of Messrs. FITZSIMONS, SMITH (of Maryland) and BALDWIN.

Mr. GERRY, from the committee to whom it was referred to prepare an estimate of the gross amount and net produce of the Impost and Tonnage duties for one year, made a report, which was read and ordered to lie on the table.

AMENDMENTS TO THE CONSTITUTION.

The House proceeded to consider the report of a Committee of Conference, on the subject, matter of the amendments depending between the two Houses to the several articles of amendment to the Constitution of the United States, as proposed by this House: whereupon, it was resolved, that they recede from their disagreement to all the amendments; provided that the two articles, which, by the amendments of the Senate, are now proposed to be inserted as the third and eighth articles, shall be amended to read as follows:

ART. 3. Congress shall make no law respecting an establishment of religion, or prohibiting a free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ART. 8. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

And provided also, that the first article be amended, by striking out the word "less" in the last place of the said article, and inserting, in lieu thereof, "more."

On the question that the House agree to the alteration of the eighth article, in the manner aforesaid, the yeas and nays were called, and are as follow:

YEAS—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Contee, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Hartley, Lee, Leonard, Madison, Moore, Muhlenberg, Parker, Partridge, Schureman, Scott, Seney, Sherman, Sylvester, Simnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Thatcher, Trumbull, Vining, White, and Wynkoop.—37.

NAYS—Messrs. Bland, Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Matthews, Page, Van Rensselaer, Sumter, and Tucker.—14.

On motion, it was resolved, that the President of the United States be requested to transmit to the Executives of the several States which have ratified the Constitution, copies of the amendments proposed by Congress, to be added thereto, and like copies to the Executives of the States of Rhode Island and North Carolina.

H. OF R.]

Invalid Pensioners.

[SEPTEMBER 25, 1789.]

INVALID PENSIONERS.

The House then went into a committee of the bill making provision for the invalid pensioners, which, after being read over in committee, they rose and reported it; and it was recommended to a select committee consisting of Messrs. WADSWORTH, HEISTER, and GILMAN.

The House, according to the order of the day, resolved itself into a Committee of the whole on the bill sent from the Senate, for regulating Processes in the courts of the United States, Mr. BOUDINOT in the Chair: after some time spent in considering the same, the committee rose, and reported the bill, with amendments.

The first amendment was to strike out the words "the President thereof," in the first clause; which declared, that "all writs or processes, issuing out of the Supreme or Circuit Courts, should be in the name of the President of the United States," so as to allow writs and processes to issue only in the name of the United States. On agreeing to the motion for striking out those words, the yeas and nays were called, and are as follows:

YEAS—Messrs. Bland, Burke, Coles, Contee, Floyd, Gerry, Griffin, Grout, Hartley, Hathorn, Heister, Jackson, Lee, Livermore, Madison, Matthews, Moore, Muhlenberg, Parker, Scott, Seney, Stone, Sumter, Tucker and White.—25.

NAYS—Messrs. Ames, Baldwin, Benson, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Lawrence, Leonard, Partridge, Sherman, Sylvester, Sinnickson, Thatcher, Vining, and Wynkoop.—18.

So the words were struck out.

The bill, as amended, passed the House, and was sent to the Senate; after which the House adjourned.

FRIDAY, September 25.

The Appropriation bill was read a third time and passed.

DAY OF THANKSGIVING.

Mr. BOUDINOT said, he could not think of letting the session pass over without offering an opportunity to all the citizens of the United States of joining, with one voice, in returning to Almighty God their sincere thanks for the many blessings he had poured down upon them. With this view, therefore, he would move the following resolution:

Resolved, That a joint committee of both Houses be directed to wait upon the President of the United States, to request that he would recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a Constitution of government for their safety and happiness.

Mr. BURKE did not like this mimicking of European customs, where they made a mere mockery of thanksgivings. Two parties at war frequently sung *Te Deum* for the same event, though to one it was a victory, and to the other a defeat.

Mr. BOUDINOT was sorry to hear arguments drawn from the abuse of a good thing against the use of it. He hoped no gentleman would make a serious opposition to a measure both prudent and just.

Mr. TUCKER thought the House had no business to interfere in a matter which did not concern them. Why should the President direct the people to do what, perhaps, they have no mind to do? They may not be inclined to return thanks for a Constitution until they have experienced that it promotes their safety and happiness. We do not yet know but they may have reason to be dissatisfied with the effects it has already produced; but whether this be so or not, it is a business with which Congress have nothing to do; it is a religious matter, and, as such, is proscribed to us. If a day of thanksgiving must take place, let it be done by the authority of the several States; they know best what reason their constituents have to be pleased with the establishment of this Constitution.

Mr. SHERMAN justified the practice of thanksgiving, on any signal event, not only as a laudable one in itself, but as warranted by a number of precedents in holy writ; for instance, the solemn thanksgivings and rejoicings which took place in the time of Solomon, after the building of the temple, was a case in point. This example, he thought, worthy of Christian imitation on the present occasion; and he would agree with the gentleman who moved the resolution.

Mr. BOUDINOT quoted further precedents from the practice of the late Congress; and hoped the motion would meet a ready acquiescence.

The question was now put on the resolution, and it was carried in the affirmative; and Messrs. BOUDINOT, SHERMAN, and SYLVESTER were appointed a committee on the part of the House.

INVALID PENSIONERS.

The Invalid Pensioners' bill was amended, and ordered to be engrossed, and afterwards passed its third reading.

Mr. FITZSIMONS, from the committee to whom such of the petitions, presented during the present session, as state any claims against the United States, or pray for the liquidation of any account, were referred, made report:

Whereupon,

Resolved, That the several petitions of Dudley Tyler, I. Hurst, H. Malcom, P. Bennet, C. Merkle, A. Powar, and I. McGarragh, be referred to the Secretary of the Department of War, and that he report thereupon to the next session of Congress: That the memorial of Baron de Steuben, and the several petitions of Duncan Campbell, Thomasin Gordon, Monsieur Lejeune, Englebert Kemmena, Tristram Coffin, and Martha Walker, be referred to the Secretary of the Treasury to report thereupon, in like manner, to the next session of Congress; and that the case of Brigadier General Reed ought to be provided for by a general law concerning invalids.

It was then ordered by the House, that the

SEPTEMBER 26, 1789.]

Debates of the House.

[H. OF R.]

committee to whom were referred the several petitions of William Finnie, James Gibbon, and Archibald McCallister be discharged therefrom; and that the first be referred to the Secretary of the Treasury to examine, and report to the next session of Congress; and to the Secretary at War, to examine and report in like manner upon the two latter.

A message from the Senate informed the House, that the Senate agree to the amendments proposed by this House to their amendments to the several articles of amendment to the Constitution of the United States.

FOR REGULATING PROCESS.

Another message was shortly after received from the Senate, informing the House that the Senate agree to all the amendments proposed by the House to the bill for regulating Processes in the courts of the United States, except that respecting the style of the writ.

Mr. STONE hoped the House would insist upon their amendment. He thought substituting the name of the President, instead of the name of the United States, was a declaration that the sovereign authority was vested in the Executive. He did not believe this to be the case. The United States were sovereign; they acted by an agency, but could remove such agency without impairing their own capacity to act. He did not fear the loss of liberty by this single mark of power; but he apprehended that an aggregate, formed of one inconsiderable power, and another inconsiderable authority, might, in time, lay a foundation for pretensions it would be troublesome to dispute, and difficult to get rid of. A little prior caution was better than much future remedy.

The question was taken on their adherence to the amendment, which was decided in the affirmative; and the yeas and nays being called, were as follows:

YEAS.—Messrs. Bland, Boudinot, Brown, Burke, Carroll, Coles, Contee, Floyd, Gerry, Grout, Hartley, Hathorn, Heister, Jackson, Lee, Livermore, Madison, Matthews, Moore, Muhlenberg, Page, Parker, Van Rensselaer, Seney, Stone, Sumter, Tucker, and White.—28.

NAYS.—Messrs. Ames, Benson, Cadwalader, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Lawrence, Leonard, Partridge, Schureman, Scott, Sherman, Sylvester, Sinnickson, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—22.

A message from the Senate informed the House, that they had passed the bill to alter the time for the next meeting of Congress.

SATURDAY, September 26.

A message from the Senate informed the House, that the Senate had agreed to a resolution that the late order for the adjournment of the two Houses, this day, be rescinded; and that the President of the Senate and the Speaker of this House be authorized to close the pre-

sent session, by adjourning their respective Houses on Tuesday next; to which they desire the concurrence of this House.

The said resolution was read, and agreed to by the House.

A petition of Richard Ham, of the State of South Carolina, was presented to the House, and read, praying that he may receive compensation for certain services and supplies rendered for the use of the Navy of the United States during the late war.

Ordered, That the said petition be referred to the Secretary of the Treasury, with instructions to report thereupon to the next session of Congress.

A message from the Senate informed the House, that the Senate desired a conference with this House on the subject-matter of the first amendment, depending between the two Houses, to the bill to regulate Processes in the courts of the United States; and that they have appointed managers of the same on their part.

On motion,

Resolved, That this House do agree to the conference desired by the Senate; and that Messrs. WHITE, BURKE, and JACKSON be appointed managers of the same on the part of this House.

DEBATES OF THE HOUSE.

Mr. BURKE called up the following resolution, which he had laid on the table the 21st of this month:

Resolved, That the several persons who have published the debates of this House, in the Congressional Register, and in the newspapers of this city, have misrepresented these debates in the most glaring deviations from truth; often distorting the arguments of the members from the true meaning; imputing to some gentlemen arguments contradictory and foreign to the subject, and which were never advanced; to others, remarks and observations never made; and, in a great many instances, mutilating, and, not unfrequently, suppressing whole arguments upon subjects of the greatest moment; thus throwing over the whole proceedings a thick veil of misrepresentation and error; which being done within the House, at the very foot of the Speaker's chair, gives a sanction and authenticity to those publications, that reflects upon the House a ridicule and absurdity highly injurious to its privileges and dignity.

Resolved, That to misrepresent the debates of the House, whether it arises from incapacity, inattention, or partiality, has a mischievous tendency to infringe the freedom of debate, and that this House should no longer give sanction to it.

After the resolution was read, Mr. BURKE supported it by a reference to the misconceptions and blunders which had been printed. Mr. BLAND and Mr. WHITE made some observations on the subject, none of which, however, the editor had an opportunity of taking down.

Mr. STONE said, that there were undoubtedly inaccuracies published; but he was far from supposing this a solid reason for prohibiting the printing of their debates. He had the misfortune, he believed, not to be understood by some of those who attempted to detail what he said;

H. OF R.]

Debates of the House.

[SEPTEMBER 26, 1789.]

because they had put into his mouth sentiments which his heart never felt, nor his head comprehended; but he should never think of suppressing what the world thought valuable information on this account. Speaking from his memory, and his own observations on the publications alluded to in the resolution, he was induced to say, that one of them was condemned in a degree beyond what he thought justice required. What he had mentioned of inaccuracies applied to the newspapers. The Congressional Register, he believed, was free from misrepresentations, other than sometimes changing the mode of expression or emphasis of language, which, he presumed, was unavoidable, or necessary, when gentlemen delivered their sentiments on the floor without system or grammatical precision. He did not pretend to assert further than for what he had spoken himself, that this work had some merit on account of its accuracy. He hoped, therefore, the motion would not be agreed to.

Mr. GERRY said, these publications had a tendency to exalt some members and to depress others. Whence it arose that this was the case he did not pretend to say. He would exercise charity in this regard, and suppose it arose from inability or inadvertency in the reporters. But there was one thing very remarkable, that all the arguments on one side were fully stated, and generally took up some columns in the newspapers; while the arguments of the other side were partially stated, and condensed to a few solitary lines. Now, this circumstance could not proceed from the arguments not being heard, because gentlemen on the one side generally spoke as low as the gentlemen on the other; but, from whatever cause it proceeded, it had a tendency to hold one part up in a ridiculous point of view. If it was necessary to amuse the public in this way, to be sure they must submit to it; but he could not believe it necessary. He thought some regard ought to be paid to the reputation of the speakers, as it might influence that quality abroad; for he believed the debates of the House were neither confined to this city nor the United States.

He had made an observation, that the printers had it in their power, by misrepresentation, to make whom they pleased ridiculous in the eyes of the world, or to exalt those whose sentiments they favored. Viewing the publications in this point of light, they were matters of serious reflection; and, if they were conducted on principles of party, they might be one of the most dangerous engines in the hands of faction, and have a malignant and mischievous tendency upon the public voice of America. The debates of the British Parliament are published, it is true; but they never permit them to be taken down, they never give them the least sanction; because they know the serious consequences resulting from an improper use of such a liberty. But, notwithstanding all this, he was in favor of disseminating useful informa-

tion, by a correct and impartial publication of the speeches.

Mr. PAGE moved to let the motion lie on the table. He should object to driving the gentlemen who were at the foot of the Speaker's chair into the gallery. He looked upon such a measure as the first step towards driving them and all their hearers out of the House. It was well known to gentlemen, that they were admitted by the tacit consent of the members, and he would not acquiesce in a violent removal. He thought those gentlemen, who had reason to complain that they were held up in a ridiculous light by the printers, had now sufficient revenge by the severity of the motion, and he hoped it might induce more accurate and impartial sketches of the debates in future, to the full satisfaction of those gentlemen. But he would rather submit to all the inconveniences of ridicule than sacrifice what he thought a valuable publication of useful and interesting information to his constituents.

Mr. BURKE did not wish to draw the House into a tedious debate; sooner than be the occasion of it at this time, he would withdraw the motion. But he did not approve of sacrificing the honor and dignity of the House, by putting it into the power of the printers, as it were, by their sanction. The publication of the debates of the British Parliament was not authorized by that body; they were published by men who got access to their galleries. So here, he would be content if they were taken in the same way; but he did not like that the world should suppose these publications were authorized by the House. In truth, the misrepresentation he complained of was principally occasioned by the partiality of the printer who sat at the foot of the chair, in his publications on the most important questions that had been brought forward. He did not see him there now; but if he saw him there again, and he continued to print falsely what was said by gentlemen on this floor, he would renew the motion which he now withdrew.

Mr. HARTLEY wished a decision on the motion. He contemplated the question as involving in it an attack upon the liberty of the press.

Mr. SUMTER.—As the motion was withdrawn, he would not speak upon it; but if a motion were made to authorize the publication of the debates, in an able and impartial manner, by a gentleman who was thought qualified for the purpose, he would give it his support.

Mr. GERRY held a wish of the same nature; for he was a friend to a fair and impartial publication.

Mr. TUCKER said, that he thought a motion of the following import might be adopted:—That every person who was permitted to take down the debates ought to do it, to the best of his ability, in an accurate and impartial manner.

Mr. BLAND held a similar sentiment.

Mr. LEE thought there was an impropriety in admitting short-hand writers to publish the

SEPTEMBER 26, 1789.]

Permanent Seat of Government.

[H. OF R.]

debates, by the declared authority of the House; but he was far from objecting to their publishing, as they had heretofore done, by their tacit consent.

Mr. MADISON thought it improper to throw impediments in the way of such information as the House had hitherto permitted from the purest motives; but he believed it equally improper to give the publication of their debates a legislative sanction, because it would be making the speakers, in some instances where they were misunderstood, answerable for the sentiments they never entertained. He had seen in the newspapers very great misconceptions of what fell from him; but he had no reason to believe it was done in order to cast a veil over his declarations, or to pervert them, with an intention of rendering him ridiculous. He believed the same was just as it applied to the speeches of other gentlemen. But, be this as it might, it gave him no concern, because he was not responsible for what was published, as it was done without his interference. If any thing was done in this matter, which tended to give a sanction to any publication, he presumed the members must be, individually, at the trouble of correcting and revising their speeches. This was an inconvenience he did not wish to encounter; he therefore concluded it best to leave it on its present footing.

Mr. WHITE disapproved the idea of giving a sanction to the publications by any vote whatever; but he was friendly to the practice of publishing the debates, because it conveyed useful information, and gave much satisfaction to those citizens who cannot attend in the gallery, to hear the sentiments of those who represent them.

Mr. TUCKER withdrew the motion he had suggested, with a hope that the printers would be more cautious in future in their publications, and study a greater degree of accuracy and impartiality.

SEAT OF GOVERNMENT. ✓

A message from the Senate was received, informing the House that they had passed the bill for establishing the seat of Government of the United States, with an amendment, which the House immediately took into consideration. The amendment went to strike out all that related to the river Susquehanna, both as to fixing the seat of Government there, and removing the obstructions to the navigation; and to insert, in lieu thereof, "a district of ten miles square, bounded on the south by a line running parallel at one mile's distance from the city of Philadelphia, on the eastside of the river of Delaware, and extending northerly and westerly, so as to include Germantown."

Mr. BLAND thought the bill was so materially changed as to warrant the House to postpone its consideration. The principles upon which the Senate had proceeded, he believed, had not yet been discussed in the House, and the short time which now remained of the session forbade the attempt.

Mr. PAGE seconded this motion.

Mr. SMITH (of South Carolina) hoped that gentlemen would agree to let the bill lie on the table, and not to be driven into a measure which they considered injurious to the public interest. He trusted they would not be influenced to adopt this bill, by the Senate's keeping the appropriation bill as a hostage for it, which he understood to be the case.

Mr. FITZSIMONS was sorry to hear a thing of that kind insinuated against so respectable a body. He trusted the gentleman had been misinformed; but should be glad to know his authority.

Mr. PARTRIDGE declared that a knowledge of this fact would have considerable influence on his conduct; therefore, he was desirous of knowing to what extent it was a certainty.

Mr. BLAND would not charge the Senate with retaining the appropriation bill as a hostage; but he thought it of more importance than the bill they had now sent down, and wished it had been first acted upon.

Mr. SPEAKER informed the House that the appropriation bill was sent only yesterday to the Senate.

Mr. STONE did not suspect the Senate of the conduct which had been intimated; but, nevertheless, he was in favor of the postponement.

Mr. LEE remarked that the great principles which this House had adopted, on full debate, were now thrown out of view; they had nothing to do with the amendment which the Senate had made. He could not, after this circumstance, bring himself to believe that the House would agree to the alteration, without discussing the other principles upon which it must be founded. And here, the approaching termination of the session, and the quantity of unfinished business, presented to the mind a strong objection; either it could not be done at all, or done to great disadvantage. Beside, if it is laid over to the next session, the voice of the people may be better understood on this important question; when that was fully and fairly expressed, he flattered himself with a harmonious determination, to which all parties would submit without a single murmur.

Mr. SHERMAN thought the amendment of the Senate founded in wisdom, and upon true principles; the House had now nothing else before them. Indeed, they had just been spending an hour or two upon a very uninteresting subject respecting printers; he therefore trusted they would proceed to consider the amendment fully, and come in a proper time to a decision upon it.

Mr. WHITE considered the amendment of the Senate as totally changing the tenor of the bill, and therefore it was like introducing a new subject. Indeed, in all the long arguments which the question had drawn out, he believed this place had never been mentioned. The gentleman last up, said there was no business before the House at present: but he would ask, if a business had never yet been before them, whe-

H. OF R.]

Day of Thanksgiving.

[SEPTEMBER 28, 1789.]

ther a member would be permitted to bring it forward at this late hour. He might be told, that the act of the Senate carried greater weight in it than the motion of a member. But he would place against that weight, the weight of the vote of this House, which on a former day agreed to fix the seat of Government on the banks of the Susquehanna; so that the question may be supposed to stand on independent ground.

But there was a collateral observation he would make. If Germantown was the proper place for the permanent residence of Congress, it was so near Philadelphia as to prove that that city would be the proper place for the temporary residence, and of course they ought to move there immediately, and order the next session to be held there; but both these questions were of too much moment to be fixed by a hasty vote of the House.

Mr. JACKSON had given his assent to the bill as it passed the House, after a fair opposition: he was satisfied his fellow-citizens would submit to what appeared to be the voice of their country; though they would have preferred the Potomac on account of its centrality and contiguity to the Western Territory, yet he acceded to the Susquehanna; but this was no reason he should vote for Germantown. Who are those that say to us, Germantown is the most proper spot that can be selected? They are the representatives of the State sovereignties; where the large and small States are equally represented, the voice of the majority of the people is lost in the inequality of the political branch of the Legislature. He could not but think an alteration in the sentiment of the House, on this ground, would excite serious alarm in the minds of the people; to avoid which consequence, he should agree to the postponement.

Mr. GERRY urged, as a reason for postponement, that North Carolina and Rhode Island were out of the Union at present; and that, as there was a flattering expectation that at least one of those States would adopt the constitution by the next session, it would be extremely desirable to have their voice in determining this great question.

Mr. MADISON.—However different our sentiments, with respect to the place most proper for the seat of the Federal Government, I presume we shall all agree that a right decision is of great importance; and that a satisfactory decision is of equal moment to the happiness and tranquillity of the Union: that even the manner and circumstances under which such decision may take place, are worthy of serious consideration.

Now, sir, the amendment proposed by the Senate, not only deserves the name of a new bill, but it proceeds on principles different from those which served for the basis of the bill sent up to them from this House; hence I presume, sir, it is not only necessary to examine the merits of the proposition, but to enter into a full and minute investigation of those principles

upon which it is founded: the proposition is new and in some degree opposed to what has heretofore prevailed: the public mind has not yet been called to the consideration of it; nay, I believe it never yet has been contemplated by the inhabitants of any one State: the eye of America should be indulged with an opportunity of viewing it before it be made their fixed abode. All the other places which have been mentioned as candidates for the seat of Government, on this occasion, have at different times, and in different forms, been held up to the public attention; two of them had not only employed the deliberation, but had obtained the favorable decision of the old Congress; now after all this, to take up and adopt, in a moment, a rival place, never before contemplated, is risking an improper and a dissatisfactory decision.

Mr. STONE reminded the House of the majority there was in selecting the Susquehanna, which he conceived to be the second best spot in the United States; and how much greater that majority would have been than 31 to 17, if no other question had been involved in the bill: he could hardly suppose such a change of sentiment would take place without argument, as was necessary in order to get the Senate's amendment adopted, which he understood, was carried by a small majority indeed.

Mr. WHITE would just add one observation, which was respecting the enormous price of land in the vicinity of Philadelphia; and how imprudent it would be for Congress to subject themselves to an exorbitant demand of this nature, by fixing upon the precise spot where this Federal town should be.

The question was now taken on postponing the consideration of the amendment proposed by the Senate, until the next session; and the yeas and nays being called, are:

YEAS—Messrs. Baldwin, Bland, Brown, Burke, Carroll, Coles, Contee, Gale, Gerry, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Schureman, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker, and White.—25.

NAYS—Messrs. Ames, Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Sinnickson, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—29.

So it was determined in the negative.

A message from the President of the United States was received, enclosing a letter from the Governor of Rhode Island, written at the request and in behalf of the General Assembly of that State; which being read, was ordered to lie on the table. And then the House adjourned.

MONDAY, September 28.

DAY OF THANKSGIVING.

A message from the Senate informed the House that they had agreed to the resolution

SEPTEMBER 28, 1789.]

Permanent Seat of Government.

[H. OF R.]

desiring the President of the United States to recommend a day of general thanksgiving: also, to the resolution desiring him to transmit to the Executives of the several States of the Union, and also to the Executives of the States of Rhode Island and North Carolina, copies of the amendments agreed to by Congress to the Constitution of the United States. They have also come to a resolution appointing a committee to join with such committee as this House shall appoint, to wait upon the President of the United States, and notify him of the proposed recess of Congress.

Whereupon, the House ordered that a committee be appointed to join with the committee of the Senate, for the purpose expressed in the last resolution; and named Messrs. VINING, LEE, and GILMAN, accordingly.

The House then proceeded to consider the amendments proposed by the Senate to the bill for the establishing the seat of Government of the United States.

SEAT OF GOVERNMENT.

Mr. SHERMAN.—In our deliberations on this occasion, we should have an eye to the general accommodation of the Union, and the best way of defraying the expense. The place fixed upon by the Senate, he presumed, was known to the members generally; hence they were able to judge of its eligibility at the first view; it certainly possessed some advantages over the other situation; and he believed it was as central, if not more so than the Susquehanna, as it respected the present inhabitants; the air, the soil, in that neighborhood, were quite as agreeable as the other. But there was an access by water, from every part of the United States, which furnished a very great convenience; but beside this, those who came from the Southern States, had generally an inland navigation, with a short distance to come by land from the head of the Elk; so the citizens of the Eastern States, in like manner, would be accommodated by coming through the Sound and crossing to Amboy, on which route they would have but about 70 miles land carriage; a distance nearly equal with the other. He admitted that Germantown was not quite so near to the Western Territory as the Susquehanna was; but he contemplated a very distant day before it would be settled, and much longer before the inhabitants would have frequent occasion of travelling to the seat of Government. Added to the advantages he had mentioned, there were good buildings, and convenience for arsenals and ship-yards, with abundance of artificers on the spot; these considerations, taken together, induced him to think it best to concur with the Senate.

With respect to the change which the Senate has proposed in the mode of obtaining the money requisite to defray the expense of raising the public buildings, he thought it a prudent alteration, considering the present situation of the Treasury: the Senate, no doubt, considered this circumstance, as well as that the State of Penn-

sylvania would be benefited by this selection, beyond her equal proportion; and that she ought, therefore, to contribute something for the advantage it procured her.

Mr. SMITH thought the honorable gentleman rather inconsistent in his argument to-day. If he recollected right, the gentleman had formerly urged in favor of the Susquehanna, that it was not accessible by vessels from sea; and now he recommends this quality as an advantage in favor of the Delaware. The gentleman admits that this position is not quite so near the Western Territory as the one chosen by the House; but then he thinks no inconvenience will arise, inasmuch as it will be some years before it is peopled: but how does this comport with the principle laid down by an almost unanimous vote of the House? At the beginning of this business, we declared that a due regard should be had to the Western Territory; he now tells us, as an argument in favor of the Senate's amendment, that we should have no regard to it at all. He thinks the change made in the manner of obtaining the money favorable; but what advantage will accrue to the United States from Pennsylvania's granting 100,000 dollars, when Congress will have to purchase the land on which they are to sit down? Land in the neighborhood of Philadelphia, he had been told, was worth 40 or 50 pounds an acre. The 100,000 dollars, given by Pennsylvania, would not go far in a purchase at this rate. He thought the Government would have a better bargain in buying cheap lands on the Susquehanna; or perhaps they might have been got there for nothing. He thought this alteration unfavorable to the Public Treasury, which could ill supply such a demand upon it.

But he had an objection which would go against fixing in the neighborhood of any large city. The Federal town would, in such case, be no more than a suburb. Could any one expect Germantown to rival Philadelphia? No, it would be swallowed up by it. The public ministers, and all the officers of Government, who could afford it, would reside in Philadelphia; for they are generally found to prefer a large, handsome, well-built city to a small village. Now, he would submit whether it was consistent with the dignity of the nation to place themselves in such a situation. Beside, the State of Pennsylvania had fixed boundaries, into which they would not admit Congress; should the House, then, to show their deference and respect to her, go precisely to those boundaries, and say they are content? Why, if Germantown is central, do we not say we will go to Philadelphia? that city would undoubtedly afford better accommodation, and could be but five miles short of the centre. No, we are not to go there, because the State of Pennsylvania has proscribed us; we must go to the very line she has marked out for us, and accept her cession upon her own terms. It would be more consistent with the dignity of Congress to select the place, and wait where we are well accommodated, till the State shall consent to give it.

He hoped the large majority which had agreed to the Susquehanna would continue firm, and not suffer a dereliction of the object they had so ably supported.

Mr. SHERMAN begged leave to answer a few words of the gentleman. He was charged with inconsistency, because he had said the Susquehanna was safe from vessels of war; but this was not an objection, in his mind, to any place; he only mentioned it to obviate the objection in the minds of those who entertained it: for his part, he did not fear the effects of an invasion, because he believed and trusted that many years would pass away before the United States were involved again in war. The gentleman might also remember that the Eastern members always thought the Susquehanna south and westward of the true centre, but were content to go that far for the sake of accommodation; but now that the Senate had agreed with them in that opinion, he thought it but reasonable to meet them, and adopt their proposition.

Mr. WHITE had not been present when the question was discussed in this House; but he observed, from the minutes, and other publications, that the great contest lay between the Susquehanna and the Potomac: he understood that the interest of the whole was consulted in the choice the House had made: he was so far inclined to pay a deference to the opinion of this House, as to acquiesce in their decisions, although his own sentiments were in favor of the more southern and western position: but he could never think that great national principles would induce them to stop short of the place which they had approved.

Mr. MADISON contended that the amendment proposed by the Senate was a departure from every principle adopted by the House; but he would not trouble them with a recapitulation of arguments, which he feared would be unavailing; he wished, however, that the House would provide against one inconvenience, which was, to prevent the district in Pennsylvania, chosen by Congress, from being deprived for a time of the benefit of the laws. This, he apprehended, would be the case, unless Congress made provision for the operation of the laws of Pennsylvania, in the act by which they accepted of the cession of that State; for the State relinquished the right of legislation from the moment that Congress accepted of the district. The propriety of this proposition was so apparent, that he had not a doubt but the House would consent to it. He then moved the following proviso: "And provided, that nothing herein contained shall be construed to affect the operation of the laws of Pennsylvania, within the district ceded and accepted, until Congress shall otherwise provide by law."

Mr. LIVERMORE objected to this motion; because he supposed there was no necessity for it.

The question was then taken, do the House agree to the amendment? and decided in the affirmative. The yeas and nays being demanded, are as follows:

YEAS.—Messrs. Ames, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Schureman, Scott, Sherman, Sylvester, Sinnickson, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop—31.

NAYS.—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker, and White—24.

Mr. WHITE reported that the committee of the House had conferred with the committee of the Senate, on the subject of writs issuing in the name of the President; but had come to no agreement.

A message from the Senate was then received, with the Process bill, to which an amendment was proposed by the Senate. The House then proceeded to consider the said amendment; and a motion being made to recede from their amendment, so far as to agree to the amendments of the said amendment proposed by the Senate, the yeas and nays being required, were:

YEAS.—Messrs. Ames, Baldwin, Benson, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Lawrence, Lee, Leonard, Livermore, Partridge, Schureman, Scott, Sherman, Sylvester, Sinnickson, Smith, (of Maryland,) Thatcher, Trumbull, and Wadsworth—25.

NAYS.—Messrs. Bland, Boudinot, Brown, Burke, Coles, Contee, Floyd, Gerry, Griffin, Grout, Heister, Jackson, Madison, Moore, Muhlenberg, Parker, Page, Seney, Smith, (of South Carolina,) Stone, Sumter, Tucker, and White—25.

The votes being equal, it lay with the Speaker to decide, which he did in the affirmative.

A message was received from the Senate, with the Invalids, and the Appropriation bills, to which sundry amendments were proposed: the House immediately considered and agreed to the same.

A message from the Senate was received, with the bill to explain and amend the act for registering and clearing vessels, with amendments; these amendments were agreed to by the House.

A further message was received, informing that the Senate had postponed the consideration of the amendment of the House to the act for establishing the seat of Government of the United States. Adjourned until this evening.

EODEM DIE.

A message was received from the Senate, informing the House that they had passed the act to recognise and adapt to the constitution of the United States, the establishment of the troops raised under resolves of the old Congress, with amendments; which amendments were agreed to by the House; but when the last one was under consideration for striking out all that respected the number of the militia to be called into service for the defence of the frontiers, from the States of Pennsylvania, Vir-

SEPTEMBER 29, 1789.]

Message from the President.

[H. OF R.]

ginia, and Georgia, and to insert a clause instead thereof, empowering the President to call out the militia generally, for the purpose of protecting the frontiers against the hostile invasion of the Indians, it was moved that the House disagree to the amendment of the Senate; and the yeas and nays being required, are:

YEAS—Messrs. Benson, Carroll, Clymer, Foster, Gilman, Lawrence, Lee, Madison, Partridge, Sherman, Sylvester, Smith, (of Maryland) Stone, Thatcher, Trumbull, and Wadsworth—16.

NAYS—Messrs. Ames, Baldwin, Bland, Boudinot, Burke, Cadwalader, Coles, Contee, Fitzsimons, Floyd, Gerry, Heister, Jackson, Leonard, Livermore, Matthews, Moore, Muhlenberg, Van Rensselaer, Schureman, Scott, Seney, Sinnickson, Sumter, Tucker, and White—25.

A number of engrossed bills, and the proposed amendments to the Constitution, were brought in, passed, and signed: after which the House adjourned.

TUESDAY, September 29.

The two following messages were received from the President:

UNITED STATES, Sept. 29, 1789.

Gentlemen of the House of Representatives:

His Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and members of the General Congress of the United States of North America, announces the much lamented death of his son the Dauphin. The generous conduct of the French monarch and nation towards this country renders every event that may affect his or their prosperity interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction which a loss so much to be regretted must have occasioned both to him and them.

GEO. WASHINGTON.

UNITED STATES, Sept. 29, 1789.

Gentlemen of the House of Representatives:

Having yesterday been informed, by a joint committee of both Houses of Congress, that they had agreed to a recess, to commence this day, and to continue until the first Monday in January next, I take the earliest opportunity of acquainting you that, considering how long and laborious this session has been, and the reasons which, I presume; have produced this resolution, it does not appear to me expedient to recommend any measures to their consideration at present.

GEO. WASHINGTON.

On motion of Mr. GERRY, it was ordered, that it shall be the duty of the Secretary of the Senate and Clerk of the House, at the end of each session, to send a printed copy of the Journals thereof, respectively, to the Supreme Executive, and each branch of the Legislature, of every State.

A message was received from the Senate, with the resolution respecting JOHN WHITE; the bill for the establishment of troops; also a bill for allowing the Baron de GLAUBERG the pay of a captain, to which they requested the concurrence of the House; this bill was thereupon read a first and second time, engrossed, and read a third time, enrolled and signed, and transmitted to the Senate.

And then it was ordered that a message be sent to the Senate, to inform them that this House having completed the business before them, are now about to proceed to close the present session, by an adjournment on their part, agreeably to the order of the 26th instant; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message, and being returned,

The Speaker adjourned the House until the first Monday in January next.

HISTORY

OF

THE PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIRST CONGRESS; BEGUN AT THE CITY

OF NEW YORK, JANUARY 4, 1790.

[That no debate appears in the proceedings of the Senate, is already accounted for in a note at the commencement of the Journal of the First Session. It is for this good reason, that, until its Session in 1794, the Senate sat with *closed doors*.]

MONDAY, January 4, 1790.

The following members of the Senate assembled:

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG and TRISTRAM DALTON.

From Connecticut, WILLIAM S. JOHNSON.

From New York, RUFUS KING and PHILIP SCHUYLER.

From South Carolina, RALPH IZARD and PIERCE BUTLER.

From Georgia, WILLIAM FEW.

A quorum of members not being present, they adjourned till to-morrow.

TUESDAY, January 5.

JOHN HENRY, from Maryland, in addition to the members assembled yesterday, attended; but not being a quorum, they adjourned.

WEDNESDAY, January 6.

WILLIAM MACLAY, from Pennsylvania, attended; a quorum of the members of the Senate were present, and the Secretary was directed to inform the House of Representatives that a quorum of the Senate have assembled, and are ready to proceed to business.

Ordered, That Messrs. STRONG and IZARD be a committee on the part of the Senate, with such committee as the House of Representatives may appoint on their part, to inform the President of the United States that a quorum of the two Houses is assembled, and will be

ready in the Senate Chamber, at such time as the President may appoint, to receive any communications he may be pleased to make.

THURSDAY, January 7.

OLIVER ELLSWORTH, of Connecticut, and WILLIAM PATERSON, from New Jersey, attended.

A message from the House of Representatives informed the Senate that they have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

Mr. STRONG, on behalf of the joint committee, reported to the Senate, that they had waited on the President of the United States, agreeably to the order of both Houses, and that he informed the committee that he would meet the two Houses in the Senate Chamber to-morrow at 11 o'clock.

The Senate proceeded to consider the resolve of the House of Representatives, of this day, relative to the appointment of Chaplains; and,

Resolved, That the Senate concur therein; and that the Right Reverend Doctor Samuel Provost be appointed for the present session, on the part of the Senate.

FRIDAY, January 8.

Ordered, That the House of Representatives be informed that the Senate are ready to meet them in the Senate Chamber, to receive any communication the President of the United States may be pleased to make to the two

SENATE.]

President's address to both Houses of Congress.

[JANUARY 8, 1790.]

Houses of Congress; and that the usual seats will be assigned them.

The House of Representatives having accordingly taken their seats, the President of the United States came into the Senate Chamber, and addressed both Houses of Congress as followeth:

*Fellow Citizens of the Senate,
and House of Representatives:*

I embrace with great satisfaction the opportunity which now presents itself of congratulating you on the present favorable prospects of our public affairs. The recent accession of the important State of North Carolina to the constitution of the United States, (of which official information has been received;) the rising credit and respectability of our country; the general and increasing good-will towards the Government of the Union; and the concord, peace, and plenty with which we are blessed, are circumstances auspicious in an eminent degree to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection that the measures of the last session have been as satisfactory to your constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations, and to secure the blessings which a gracious Providence has placed within our reach, will in the course of the present important session, call for the cool and deliberate exertion of your patriotism, firmness, and wisdom.

Among the many interesting objects which will engage your attention, that of providing for the common defence will merit particular regard. To be prepared for war, is one of the most effectual means of preserving peace.

A free people ought not only to be armed, but disciplined; to which end, a uniform and well digested plan is requisite: and their safety and interest require that they should promote such manufactures as tend to render them independent of others for essential, particularly military supplies.

The proper establishment of the troops which may be deemed indispensable will be entitled to mature consideration. In the arrangements which may be made respecting it, it will be of importance to conciliate the comfortable support of the officers and soldiers with a due regard to economy.

There was reason to hope that the pacific measures, adopted with regard to certain hostile tribes of Indians, would have relieved the inhabitants of our Southern and Western frontiers from their depredations; but you will perceive, from the information contained in the papers which I shall direct to be laid before you, (comprehending a communication from the commonwealth of Virginia,) that we ought to be prepared to afford protection to those parts of the Union, and if necessary, to punish aggressors.

The interests of the United States require that our intercourse with other nations should be facilitated by such provisions as will enable me to fulfil my duty, in that respect, in the manner which circumstances may render most conducive to the public good; and to this end, that the compensations to be made to the persons who may be employed should, according to the nature of their appointments, be defined by law; and a competent fund designated for

defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient that the terms on which foreigners may be admitted to the rights of citizens, should be speedily ascertained by a uniform rule of naturalization.

Uniformity in the currency, weights and measures, of the United States, is an object of great importance, and will, I am persuaded, be duly attended to.

The advancement of agriculture, commerce, and manufactures, by all proper means, will not, I trust, need recommendation; but I cannot forbear intimating to you the expediency of giving effectual encouragement, as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our country by a due attention to the Post-Office and post-roads.

Nor am I less persuaded that you will agree with me in opinion, that there is nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is in every country the surest basis of public happiness. In one in which the measures of Government receive their impression so immediately from the sense of the community as in ours, it is proportionably essential. To the security of a free constitution it contributes in various ways. By convincing those who are entrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect to the laws.

Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a national university, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature.

Gentlemen of the House of Representatives:

I saw with peculiar pleasure, at the close of the last session, the resolution entered into by you, expressive of your opinion that an adequate provision for the support of the public credit is a matter of high importance to the national honor and prosperity. In this sentiment I entirely concur. And, to a perfect confidence in your best endeavors to devise such a provision as will be truly consistent with the end, I add an equal reliance on the cheerful co-operation of the other branch of the Legislature. It would be superfluous to specify inducements to a measure in which the character and permanent interests of the United States are so obviously and so deeply concerned, and which has received so explicit a sanction from your declaration.

Gentlemen of the Senate and House of Representatives:

I have directed the proper officers to lay before you, respectively, such papers and estimates as regard the affairs particularly recommended to your con-

JANUARY 11, 1790.]

Answer to the President's message.

[SENATE.]

sideration, and necessary to convey to you that information of the State of the Union, which it is my duty to afford.

The welfare of our country is the great object to which our cares and efforts ought to be directed. And I shall derive great satisfaction from a co-operation with you, in the pleasing though arduous task of ensuring to our fellow-citizens the blessings which they have a right to expect from a free, efficient and equal Government.

GEO. WASHINGTON.

UNITED STATES, January 8, 1790.

The President of the United States having retired, and the two Houses being separated:

Ordered, That Messrs. KING, IZARD, and PATERSON, be a committee to prepare and report the draft of an address to the President of the United States, in answer to his speech delivered this day to both Houses of Congress, in the Senate Chamber.

Ordered, That the speech of the President of the United States, delivered this day, be printed for the use of the Senate.

The Senate adjourned to Monday next.

MONDAY, January 11.

A message from the President of the United States, by Mr. LEAR, his Secretary, was read as followeth:

Gentlemen of the Senate:

I have directed Mr. LEAR, my private Secretary, to lay before you a copy of the adoption and ratification of the Constitution of the United States by the State of North Carolina, together with a copy of a letter from his Excellency SAMUEL JOHNSTON, President of the Convention of said State, to the President of the United States.

GEO. WASHINGTON.

The originals of the papers which are herewith transmitted to you will be lodged in the office of the Secretary of State.

UNITED STATES, January 11, 1790.

Ordered, That the message from the President of the United States, with the papers accompanying the same, lie on the files of the Senate.

Mr. KING, on behalf of the committee, reported an address to the President of the United States, in answer to his speech to both Houses of Congress, which being amended, was adopted as followeth:

To the President of the United States.

SIR:—We, the Senate of the United States, return you our thanks for your speech delivered to both Houses of Congress. The accession of the State of North Carolina to the Constitution of the United States gives us much pleasure: and we offer you our congratulations on that event, which at the same time adds strength to our Union, and affords a proof that the more the Constitution has been considered, the more the goodness of it has appeared. The information which we have received, that the measures of the last session have been as satisfactory to our constituents as we had reason to expect, from the difficulty of the work in which we were engaged, will afford us much consolation and encouragement.

in resuming our deliberations, in the present session, for the public good; and every exertion on our part shall be made to realize and secure to our country those blessings which a gracious Providence has placed within her reach. We are persuaded that one of the most effectual means of preserving peace is to be prepared for war; and our attention shall be directed to the objects of common defence, and to the adoption of such plans as shall appear the most likely to prevent our dependence on other countries for essential supplies. In the arrangements to be made respecting the establishment of such troops as may be deemed indispensable, we shall, with pleasure, provide for the comfortable support of the officers and soldiers, with a due regard to economy. We regret that the pacific measures adopted by Government, with regard to certain hostile tribes of Indians, have not been attended with the beneficial effects towards the inhabitants of our Southern and Western frontiers which we had reason to hope, and we shall cheerfully co-operate in providing the most effectual means for their protection, and, if necessary, for the punishment of aggressors. The uniformity of the currency, and of weights and measures; the introduction of new and useful inventions from abroad, and the exertions of skill and genius in producing them at home; the facilitating the communication between the distant parts of our country, by means of the Post-Office and post-roads; a provision for the support of the Department of Foreign Affairs, and a uniform rule of naturalization, by which foreigners may be admitted to the rights of citizens, are objects which shall receive such early attention as their respective importance requires. Literature and Science are essential to the preservation of a free constitution: the measures of Government should, therefore, be calculated to strengthen the confidence that is due to that important truth. Agriculture, Commerce, and Manufactures, forming the basis of the wealth and strength of our confederated Republic, must be the frequent subject of our deliberation, and shall be advanced by all proper means in our power. Public Credit being an object of great importance, we shall cheerfully co-operate in all proper measures for its support. Proper attention shall be given to such papers and estimates as you may be pleased to lay before us. Our cares and efforts shall be directed to the welfare of our country; and we have the most perfect dependence upon your co-operating with us, on all occasions, in such measures as will insure to our fellow-citizens the blessings which they have a right to expect from a free, efficient, and equal Government.

The Senate then entered on Executive business, and the following message from the President of the United States was read:

UNITED STATES, January 11, 1790.

Gentlemen of the Senate:

Having advised with you upon the terms of a treaty to be offered to the Creek Nation of Indians, I think it proper you should be informed of the result of that business, previous to its coming before you in your Legislative capacity. I have therefore directed the Secretary for the Department of War to lay before you my instructions to the Commissioners, and their report in consequence thereof.

The apparently critical state of the Southern fron-

SENATE.]

Proceedings.

[JANUARY 21, 1790.]

tier will render it expédient for me to communicate to both Houses of Congress, with other papers, the whole of the transactions relative to the Creeks, in order that they may be enabled to form a judgment of the measures which the case may require.

GEO. WASHINGTON.

Ordered, That the communication from the President of the United States be deferred for consideration.

TUESDAY, January 12.

A message from the President of the United States was received by the Secretary of War.

*Gentlemen of the Senate,
and House of Representatives:*

I lay before you a statement of the South-western frontiers, and of the Indian Department, which have been submitted to me by the Secretary for the Department of War.

I conceive, that an unreserved but confidential communication of all the papers relative to the recent negotiations with some of the southern tribes of Indians is indispensably requisite for the information of Congress. I am persuaded, that they will effectually prevent either transcripts or publications of all such circumstances as might be injurious to the public interests.

G. WASHINGTON.

UNITED STATES, January 12, 1790.

Ordered, That the message from the President of the United States, together with the papers accompanying the same, lie for consideration.

Ordered, That the Address to the President of the United States, in answer to his speech, be presented by the Vice President, attended by the Senate, and that the committee which reported the address wait on the President, and desire to be informed at what time and place he will receive the same.

Mr. KING, in behalf of the committee, reported that it would be agreeable to the President to receive the address of the Senate, in answer to his speech, on Thursday next, at 11 o'clock, at his own house.

WEDNESDAY, January 13.

JONATHAN ELMER, from New Jersey, attended.

BENJAMIN HAWKINS, from North Carolina, appeared, produced his credentials, and took his seat.

The Vice President administered the oath to Mr. HAWKINS.

THURSDAY, January 14.

Agreeably to the order of the 12th instant, the Senate waited on the President of the United States, at his own house, where the Vice President, in their name, delivered to the President of the United States the address agreed to on the 11th instant:

To which the President of the United States was pleased to make the following reply:

Gentlemen: I thank you for your address, and for the assurances which it contains of attention to the several matters suggested by me to your consideration.

Relying on the continuance of your exertions for the public good, I anticipate for our country the salutary effects of upright and prudent counsels.

G. WASHINGTON.

The Senate having returned to the Senate Chamber, adjourned.

FRIDAY, January 15.

Ordered, That Messrs. ELLSWORTH, HAWKINS, and PATERSON, be a committee to bring in a bill, in addition to "An act to establish the Judicial Courts of the United States."

MONDAY, January 18.

A letter was read from Gerard Bancker, the Treasurer of the State of New York, presenting, on behalf of the Legislature, a copy of the revised laws of that State.

Ordered, That this letter lie for consideration.

A letter from Gaetan Dago di Doimco, proposing the plan of a truce between the United States and the regencies of Algiers and Tunis, was read.

Ordered, That this letter lie on the files of the Senate.

TUESDAY, January 19.

On motion that a committee be appointed to report a bill defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment:

A motion was made for postponement, and it passed in the affirmative.

Ordered, That Messrs. STRONG, KING, JOHNSON, ELLSWORTH, and HENRY, be a committee to report a bill to regulate processes in the courts of the United States.

WEDNESDAY, January 20.

On motion to resume the consideration of the motion made yesterday, to wit: "That a committee be appointed to report a bill, defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment:"

A motion was made further to postpone the consideration thereof, and it passed in the affirmative.

On motion,

Resolved, That Messrs. ELLSWORTH, MACLAY, and HENRY, be a committee to confer with such committee as may be appointed on the part of the House of Representatives, to consider and report whether or not the business began previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place.

Ordered, That a message be sent to the House of Representatives, acquainting them herewith, and requesting the appointment of a similar committee on their part.

THURSDAY, January 21.

ROBERT MORRIS, from Pennsylvania, attended.

JANUARY 27, 1790.]

Proceedings.

[SENATE.]

The following message was received from the President of the United States, by the Secretary of War:

*Gentlemen of the Senate,
and House of Representatives:*

The Secretary for the Department of War has submitted to me certain principles, to serve as a plan for the general arrangement of the militia of the United States.

Conceiving the subject to be of the highest importance to the welfare of our country, and liable to be placed in various points of view, I have directed him to lay the plan before Congress, for their information, in order that they may make such use thereof as they may judge proper.

G. WASHINGTON.

UNITED STATES, January 21, 1790.

Ordered, That the message from the President of the United States lie for consideration.

Ordered, That the Senate be supplied with newspapers as usual.

A message from the House of Representatives informed the Senate that they had agreed to the appointment of a committee on their part, consisting of Messrs. SHERMAN, THATCHER, HARTLEY, WHITE, and JACKSON, to confer with the committee appointed on the part of the Senate, to consider and report whether or not the business begun previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place.

FRIDAY, JANUARY 22.

Mr. ELLSWORTH, on behalf of the "joint committee of the two Houses, appointed to consider and report whether or not the business begun previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place," reported.

Ordered, That the consideration of the report be deferred until Monday next.

MONDAY, JANUARY 25.

The Senate proceeded to consider the report of the joint committee of the Senate and House of Representatives, appointed the 20th instant, to wit: "that the business unfinished between the two Houses at the late adjournment ought to be regarded as if it had not been passed upon by either;"

And, on motion that the report of the committee be postponed, it passed in the negative.

And, upon the question to agree to the report of the committee, the yeas and nays being required by one-fifth of the Senators present:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Hawkins, Henry, Johnson, King, Schuyler, and Strong.—10.

NAYS.—Messrs. Bassett, Ellmer, Izard, Langdon, Maclay, Morris, Paterson, and Wingate.—8.

So it passed in the affirmative.

And it was

Resolved, That the business unfinished between the two Houses at the late adjournment ought to be regarded as if it had not been passed upon by either.

Ordered, That a message be sent to the House of Representatives, requesting their concurrence in this resolve.

The following message from the President of the United States, by his Secretary, was read:

*Gentlemen of the Senate,
and House of Representatives:*

I have received from his Excellency, John E. Howard, Governor of the State of Maryland, an act of the Legislature of Maryland, to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by Congress to the Legislatures of the several States; and have directed my Secretary to lay a copy of the same before you, together with the copy of a letter accompanying the above act, from his Excellency, the Governor of Maryland, to the President of the United States.

The originals will be deposited in the office of the Secretary of State.

G. WASHINGTON.

UNITED STATES, January 25, 1790.

Ordered, That the message from the President of the United States, together with the papers accompanying the same, lie for consideration.

TUESDAY, JANUARY 26.

Ordered, That Messrs. ELLSWORTH, JOHNSON, STRONG, PATERSON, and HAWKINS, be a committee to report "a bill defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment."

A message from the House of Representatives announced their agreement with the Senate in their resolution, that the business unfinished between the two Houses, at the late adjournment, ought to be regarded as if it had not been passed upon by either.

Mr. ELLSWORTH, on behalf of the committee, reported a bill defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment.

Ordered, That this bill have the first reading at this time.

Ordered, That this bill have the second reading to-morrow.

The letter from Gaetan Dago di Domco was read.

Ordered, That the above letter, and the paper accompanying it, be sent to the House of Representatives.

WEDNESDAY, JANUARY 27.

The Senate proceeded to the second reading of the "bill defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment;" and, after progress,

Ordered, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that they had passed an act for giving effect to the several acts therein mentioned, in respect to the State of North Carolina.

SENATE.]

Proceedings.

[FEBRUARY 1, 1790.]

Ordered, That this bill have the first reading at this time.

Ordered, That this bill have the second reading to-morrow.

THURSDAY, January 28.

The Senate proceeded to consider the bill defining the crimes and offences that shall be cognizable under the authority of the United States, and their punishment; and it was read a second time.

Ordered, That the rules be so far dispensed with, as that this bill have the third reading at this time.

On motion that the fourth section be amended to read as follows:

"That the court before whom any person shall be convicted of the crime of murder, for which he or she shall be sentenced to suffer death, may, at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the marshal who is to cause such sentence to be executed, shall, accordingly, deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid: *Provided*, that such surgeon, or some other person by him appointed for the purpose, shall attend to receive and take away the dead body, at the time of the execution of such offender."

It passed in the affirmative.

Resolved, That this bill do pass as amended; that the title be "An act for the punishment of certain crimes against the United States;" that it be engrossed, and sent to the House of the Representatives for concurrence.

The following message from the President of the United States, by his Secretary, was read:

*Gentlemen of the Senate,
and House of Representatives:*

I have directed my Secretary to lay before you the copy of an act of the Legislature of Rhode Island and Providence Plantations, entitled "An act for calling a Convention to take into consideration the Constitution proposed for the United States, passed on the 17th day of September, A. D. 1787, by the General Convention held at Philadelphia," together with the copy of a letter accompanying said act, from his Excellency John Collins, Governor of the State of Rhode Island and Providence Plantations, to the President of the United States.

The originals of the foregoing act and letter will be deposited in the office of the Secretary of State.

GEO. WASHINGTON.

UNITED STATES, January 28, 1790.

Ordered, That the message, together with the papers accompanying it, lie for consideration.

The Senate proceeded to the second reading of the bill, giving effect to the several acts therein mentioned, in respect to the State of North Carolina.

Ordered, That this bill be referred to a special committee, to consist of Messrs. HAWKINS, ELLSWORTH, and BUTLER.

On motion it was

Ordered, That the letter from the Governor of Rhode Island of the 18th of January instant, to the President of the United States, requesting a further suspension of the acts of Congress subjecting the citizens of the State of Rhode Island to the payment of foreign tonnage and foreign duties, during the pleasure of Congress, and communicated with the President's message this day, be referred to the same committee.

FRIDAY, January 29.

SAMUEL JOHNSTON, from North Carolina, appeared, produced his credentials, and took his seat in the Senate.

The Vice President administered the oath to Mr. JOHNSTON.

The engrossed bill for the punishment of certain crimes against the United States was carried to the House of Representatives for concurrence.

A letter from Samuel Meredith, Treasurer of the United States, to the Vice President; with his accounts to the first of Jan. 1790, were read.

Ordered, That the said letters and papers lie for consideration.

On motion, the Senators from the State of North Carolina proceeded to draw lots for their classes, in conformity to the resolve of the Senate of May the 14th, 1789; and two lots, Nos. 2 and 3, being by the Secretary rolled up and put into box, Mr. JOHNSTON drew lot No. 2, whose seat in the Senate shall accordingly be vacated at the expiration of the fourth year.

And Mr. HAWKINS drew lot No. 3, whose seat in the Senate shall accordingly be vacated at the expiration of the sixth year.

MONDAY, February 1.

Mr. JOHNSTON and Mr. HAWKINS laid before the Senate an exemplified copy of the act of the Legislature of North Carolina, entitled "An act for the purpose of ceding to the United States of America certain western lands therein described," which, being read, was ordered to lie for consideration.

Mr. HAWKINS, on behalf of the committee appointed the 28th of January, upon the bill for giving effect to the several acts therein mentioned, in respect to the State of North Carolina, reported sundry amendments, which were accepted.

Ordered, That the rules be so far dispensed with, as that this bill be now read the third time.

Resolved, That the Senate do concur in this bill, with thirteen amendments.

Ordered, That the bill be carried to the House of Representatives for concurrence in the amendments.

The following message from the President of the United States, by his Secretary, was read:

*Gentlemen of the Senate,
and House of Representatives:*

I have received from his Excellency Alexander Martin, Governor of the State of North Carolina, an

FEBRUARY 9, 1790.]

Proceedings.

[SENATE.]

act of the General Assembly of that State, entitled "An act for the purpose of ceding to the United States of America, certain Western Lands therein described," and have directed my Secretary to lay a copy of the same before you, together with a copy of a letter accompanying said act, from his Excellency Governor Martin to the President of the United States.

GEORGE WASHINGTON.

The originals of the foregoing act and letter will be deposited in the office of the Secretary of State. UNITED STATES, February 1, 1790.

Ordered, That the communication made by the Senators from the State of North Carolina, together with the President's message of this day, be committed to Messrs. HENRY, IZARD, ELLSWORTH, BASSETT, and FEW.

TUESDAY, February 2.

The following message from the House of Representatives was read, as follows:

In the House of Representatives of the United States,
FEBRUARY 1, 1790.

"The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for giving effect to the several acts therein mentioned in respect to the State of North Carolina;" whereupon,

"*Resolved*, That this House doth agree to all the said amendments, with an amendment to the last amendment, as follows:"

"Strike out the word 'second' to the end of the amendment, and, in lieu thereof, insert 'section of the act' entitled "An act to suspend part of act, entitled 'An act to regulate the collection of duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States, and for other purposes,' passed the sixteenth day of September last, shall, with respect to the inhabitants and citizens of the State of Rhode Island and Providence Plantations;" and also, 'that the fourth section of the said act shall continue in force until the first day of April next, and no longer."

Mr. MORRIS presented the petition of Francis Bailey, upon his new invented method of making types, which was read.

Ordered, That the petition be committed to Messrs. MORRIS, IZARD, and LANGDON.

The Senate proceeded to consider the message from the House of Representatives of this day, and

Resolved, That they agree to the amendment proposed to the amendment of the Senate, with an amendment, by striking out what follows the word 'Plantations,' and inserting these words: 'be revived; and also, that the fourth section of the said act shall be revived, and both continue in force until the first day of April next, and no longer."

Ordered, That a message be sent to the House of Representatives accordingly.

WEDNESDAY, February 3.

A message from the House of Representatives informed the Senate, that they have appointed Messrs. GILMAN and WHITE a Committee on Enrolled Bills, on the part of the House of Re-

presentatives, agreeable to the joint rules of the two Houses.

The Senate proceeded to consider the message from the House of Representatives of this day, and

Ordered, That Mr. WINGATE be a committee on their part for the purposes therein mentioned.

THURSDAY, February 4.

No material business was done to-day.

FRIDAY, February 5.

No material business done to-day.

MONDAY, February 8.

A memorial was read from ROBERT MORRIS, late Superintendent of the Finances of the United States, in relation to the settlement of his accounts (a copy of which will be found in the appendix at the end of this volume): The memorial was referred to a committee, consisting of Messrs. IZARD, HENRY, and ELLSWORTH.

TUESDAY, February 9.

A message from the House of Representatives informed the Senate, that they have passed a bill providing for the actual enumeration of the inhabitants of the United States, to which they request the concurrence of the Senate.

This bill received its first reading, and was ordered to have its second reading on Friday next.

The Senate then entered on Executive business.

The following messages from the President of the United States were read:

UNITED STATES, February 9, 1790.

Gentlemen of the Senate:

You will perceive, from the papers herewith delivered, and which are enumerated in the annexed list, that a difference subsists between Great Britain and the United States, relative to the boundary line between our Eastern boundary and their territories. A plan for deciding this difference was laid before the late Congress; and whether that, or some other plan of a like kind, would not now be eligible, is submitted to your consideration.

In my opinion it is desirable that all questions between this and other nations be speedily and amicably settled; and in this instance I think it advisable to postpone any negotiations on the subject until I shall be informed of the result of your deliberations, and receive your advice as to the propositions most proper to be offered on the part of the United States.

As I am taking measures for learning the intentions of Great Britain respecting the further detention of our posts, &c., I am the more solicitous that the business now submitted to you may be prepared for negotiation as soon as the other important affairs which engage your attention will permit.

G. WASHINGTON.

UNITED STATES, February 9, 1790.

Gentlemen of the Senate:

I nominate, as Collectors, Naval Officers, and Surveyors for the ports of the several districts in the

SENATE.]

Proceedings.

[FEBRUARY 10, 1790.]

State of North Carolina, the persons whose names are respectively annexed to the offices in the following list:

Wilmington District.—Wilmington, James Read, Collector; John Walker, Naval Officer; Thomas Calender, Surveyor.

Newbern District.—Newbern, John Daves, Collector; Beaufort, John Easton, Surveyor.

Washington District.—Washington, Nathan Keais, Collector.

Edenton District.—Edenton, Thomas Benbury, Collector; Hartford, Joshua Skinner, Jun., son of William, Surveyor; Murfreesborough; Hardy Murfree, Surveyor; Plymouth, Levi Blount, Surveyor; Skewarke, Henry Hunter, Surveyor; Winton, William Wynne, Surveyor; Bennit's Creek, John Baker, Surveyor.

Camden District, Planksbridge on Sawyer's Creek, Isaac Gregory, Collector; Nixonton, Hugh Knox, Surveyor; Indiantown, Thomas Williams, Surveyor; Pasquotank River Bridge, Edmund Sawyer, Surveyor; Newbiggen Creek, Elias Albertson, Surveyor.

I likewise nominate Samuel Shaw to fill the office of Consul of the United States of America, at Canton, in China.

G. WASHINGTON.

constitution, by temporary appointments, which you will find mentioned in the second column of the list. These appointments will expire with your present session, and indeed ought not to endure longer than until others can be regularly made. For that purpose, I now nominate to you the persons named in the third column of the list, as being, in my opinion, qualified to fill the offices opposite to their names in the first.

G. WASHINGTON.

Ordered, That the consideration of the message from the President of the United States, in respect to the "difference that subsists between Great Britain and the United States, relative to the Eastern boundary," be postponed for consideration.

Ordered, That the consideration of the message from the President of the United States, relative to "certain persons who decline the acceptance of offices, and to certain temporary appointments during the recess," be postponed till to-morrow.

The nominations of Collectors, &c. for North Carolina were confirmed.

WEDNESDAY, February 10.

Mr. IZARD, from the committee appointed to take into consideration the memorial of Robert Morris, made a report, the consideration of which was postponed till to-morrow.

The Senate then entered upon Executive business, and proceeded to consider the nominations made by the President of the United States in his messages of the 9th instant, and,

On the question to advise and consent to the appointment of Samuel Shaw, to fill the office of Consul of the United States of America, at Canton, in China, it passed in the affirmative.

On the question to advise and consent to the appointment of James Iredell, to be one of the Associate Judges of the Supreme Court, it passed in the affirmative.

On the question to advise and consent to the appointment of William Paca, to be District Judge of Maryland, it passed in the affirmative.

On the question to advise and consent to the appointment of Cyrus Griffin, to be District Judge of Virginia, it passed in the affirmative.

On the question to advise and consent to the appointment of William Nelson, Jun. to be Attorney for the District of Virginia, it passed in the affirmative.

On the question to advise and consent to the appointment of William Drayton, to be District Judge of South Carolina, it passed in the affirmative.

On the question to advise and consent to the appointment of Christopher Hillary, to be Collector of the port of Brunswick, in Georgia, it passed in the affirmative.

On the question to advise and consent to the appointment of Richard Taylor, to be Collector of the port of Louisville, in Kentucky, it passed in the affirmative.

On the question to advise and consent to the appointment of Comfort Sage to be Surveyor of

Resignations.	Temporary Appointments.	Nominations.
Robert H. Harrison, one of the Associate Judges of the Supreme Court,	-	{ James Iredell, of North Carolina.
Thomas Johnson, District Judge of Maryland,	William Paca,	William Paca.
Edmund Pendleton, District Judge of Virginia,	Cyrus Griffin,	Cyrus Griffin.
John Marshall, Attorney for the District of Virginia,	W. Nelson, Jun.	William Nelson, Jun.
Thomas Pinckney, Dist. Judge of South Carolina,	W. Drayton,	William Drayton.
George Handley, Collector of the port of Brunswick in Georgia,	-	Christopher Hillary.
Peyton Short, Collector of the port of Louisville in Kentucky,	-	Richard Taylor.
Asher Miller, Surveyor of the port of Middletown in Connecticut,	-	Comfort Sage.
		G. WASHINGTON.

UNITED STATES, February 9, 1790.

Gentlemen of the Senate:

Among the persons appointed, during the last session, to offices under the National Government, there were some who declined serving. Their names and offices are specified in the first column of the foregoing list. I supplied these vacancies, agreeably to the

FEBRUARY 18, 1790.]

Proceedings.

[SENATE.]

the port of Middletown, in Connecticut, it passed in the affirmative.

The Senate proposed to consider the message from the President of the United States, of the 9th instant, in respect to "the difference that subsists between Great Britain and the United States, relative to the Eastern boundary;" and

Ordered, That the message, with the papers accompanying the same, be committed to MESSRS. STRONG, BUTLER, PATTERSON, HAWKINS, and JOHNSTON, to report what is proper to be done thereon.

THURSDAY, February 11.

The Senate proceeded to consider the report of the Committee upon the memorial of the Hon. ROBERT MORRIS; and, upon the question to accept the report—It passed in the affirmative: whereupon,

Resolved, by the Senate and House of Representatives, that three commissioners be appointed by the President of the United States, to inquire into the receipts and expenditures of public moneys during the administration of the late Superintendent of Finance; and to examine and adjust the accounts of the United States with that Department, during his administration; and to report a state thereof to the President; and that five dollars per diem be allowed to each of the said commissioners, while they shall be employed in that service.

Ordered, That this resolve be sent to the House of Representatives for concurrence.

Ordered, That MESSRS. MORRIS, LANGDON, BUTLER, DALTON, and ELLSWORTH, be a Committee, to report, if they think it expedient, a plan for the regulation of the trade of the United States with the countries and settlements of the European powers in America.

FRIDAY, February 12.

The Senate proceeded, agreeably to the order of the day, to the second reading of the bill, providing for the actual enumeration of the inhabitants of the United States.

Ordered, That the bill be committed to MESSRS. PATERSON, ELLSWORTH, HAWKINS, STRONG, and JOHNSON.

MONDAY, February 15.

A letter from BENJAMIN FRANKLIN, Esquire, to the Vice President, enclosing the copy of a letter from James Pemberton, with a memorial, signed Benjamin Franklin, in behalf of a society of which he is President; and an address, signed Nicholas Wahn, in behalf of the yearly meeting, of which he is Clerk; together with an address signed George Bowne, in behalf of the representatives of a society, of which he is clerk, were severally read.

TUESDAY, February 16.

Mr. PATERSON, on behalf of the committee appointed the 12th February, on the bill providing for the actual enumeration of the inhabi-

tants of the United States; reported sundry amendments, which were accepted, and,

Ordered, That the sixth section be re-committed.

WEDNESDAY, February 17.

Mr. PATERSON, on behalf of the committee to whom was referred the sixth section of the bill providing for the actual enumeration of the inhabitants of the United States, reported, that no alteration is necessary;

And the report was accepted.

Ordered, That the bill have the third reading to-morrow.

Mr. HENRY, on behalf of the committee appointed February 1st, to whom was referred the communication by the Senators from the State of North Carolina, of the act of their Legislature, entitled "An act for the purpose of ceding to the United States of America certain Western Lands, therein described;" together with the message from the President of the United States, of February 1st, on that subject, reported.

Ordered, That to-morrow be assigned for the consideration of the report.

THURSDAY, February 18.

The Senate proceeded to the third reading of the bill providing for the actual enumeration of the inhabitants of the United States.

Resolved, That this bill do pass with twenty-nine amendments.

Ordered, That the bill be carried to the House of Representatives for concurrence in the amendments.

On motion, *Ordered*, That the consideration of the report of the committee to whom was referred the communication by the Senators of the State of North Carolina, of the act of the Legislature of that State, entitled "An act for the purpose of ceding to the United States of America certain Western Lands, therein described," together with the message from the President of the United States, of February 1st, on that subject, be postponed until Monday next.

The Senate then entered upon Executive business. The following message from the President of the United States was read:

UNITED STATES, February 18, 1790.

Gentlemen of the Senate:

By the mail of last evening I received a letter from his Excellency JOHN HANCOCK, Governor of the Commonwealth of Massachusetts, enclosing a resolve of the Senate and House of Representatives of that Commonwealth, and sundry documents relative to the Eastern boundary of the United States.

I have directed a copy of the letter and resolve to be laid before you. The documents which accompanied them, being but copies of some of the papers which were delivered to you with my communication the 9th of this month, I have thought it unnecessary to lay them before you at this time. They will be deposited in the Office of the Secretary of State, together with the originals of the above mentioned letters and resolve.

GEO. WASHINGTON.

SENATE.]

Proceedings.

FEBRUARY 26, 1890.

Ordered, That the message, and papers accompanying the same, be committed to the committee appointed the 10th February, to take into consideration the President's message of a similar nature.

FRIDAY, February 19.

No material business done to-day.

MONDAY, February 22.

Mr. MORRIS, in behalf of the committee to whom was referred the petition of Francis Bailey, reported: whereupon,

Ordered, That the said petition be referred to the Secretary of the Treasury to report.

The Senate proceeded to consider the report of the committee appointed February 1st, to whom was referred the communication by the Senators from the State of North Carolina, of the act of their Legislature, entitled "An act for the purpose of ceding to the United States of America certain Western Lands, therein described;" together with the message from the President of the United States, of February 1st, on that subject, to wit:

"That it will be expedient for Congress, in behalf of the United States, to accept of the cession proposed by the said act, upon the conditions therein contained; and that, when a deed shall be executed for the same, they express their acceptance thereof by a legislative act," and

Resolved, That the Senate do accept the report.

Ordered, That it be sent to the House of Representatives for their concurrence.

A message from the House of Representatives informed the Senate, that they agree to all the amendments proposed by the Senate to the bill, entitled "An act for the actual enumeration of the inhabitants of the United States," except the 22d, 23d, 24th, 25th, and 26th; to which they disagree.

The Senate proceeded to consider the above recited message from the House of Representatives, and

Resolved, That they do recede from their 22d, 23d, 24th, 25th, and 26th amendments to the bill therein mentioned.

TUESDAY, February 23.

Ordered, That Messrs. ELLSWORTH, STRONG, and IZARD, be a committee to bring in a bill for declaring the acceptance of certain lands ceded to the United States by the Legislature of North Carolina, as described in their act of cession, when a deed thereof shall be executed.

Ordered, That Messrs. HAWKINS, LANGDON, and FEW, be a committee to prepare and report a rule, determining in what cases a re-consideration of a vote of Senate shall be admissible.

The report of the Secretary of the Treasury upon the petition of Francis Bailey was read, as follows:

"Pursuant to the above order of the Senate of the United States, of the 22d of February instant, refer-

ring the petition of Francis Bailey to the Secretary of the Treasury, the said Secretary reports:

That he has received from the said Francis Bailey a communication of the invention to which he alludes in his petition.

That it appears to him difficult to decide to what extent that invention will afford the security against counterfeiting which is the object of it;

That, nevertheless, he is of opinion, it will be likely to add to the difficulty of that pernicious practice in a sufficient degree to merit the countenance of Government, by securing to the petitioner an exclusive right to the use of the invention;

That, with regard to the employment of the petitioner, to print such papers of a public nature, as may require precaution against counterfeit, this, in the judgment of the Secretary, ought to remain a matter of discretion, to be regulated by the success of the experiment, and the convenience of the public.

All of which is humbly submitted.

ALEXANDER HAMILTON,

Secretary of the Treasury.

Ordered, That it lie for consideration.

On motion that a committee be appointed to consider what measures may be necessary to be adopted relative to the inspection of exports from the United States, and if they think proper, to prepare a bill on that subject.

Ordered, That this motion lie for consideration.

WEDNESDAY, February 24.

On motion, *Ordered*, That Messrs. DALTON, MORRIS, IZARD, LANGDON, and JOHNSTON, be a committee "to consider what measures may be necessary to be adopted relative to the inspection of exports from the United States; and, if they think proper, to prepare a bill on that subject."

Mr. HAWKINS, on behalf of the committee appointed to prepare and report a rule, determining in what cases a re-consideration of a vote of Senate shall be admissible, reported.

Ordered, That the report lie for consideration.

THURSDAY, February 25.

The Senate proceeded to consider the report of the committee appointed the 23d instant, "to prepare and report a rule determining in what cases a re-consideration of a vote of Senate shall be admissible;" which, being amended, was accepted: whereupon,

Resolved, That, when a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for a re-consideration of it.

FRIDAY, February 26.

Ordered. That Messrs. BASSET, FEW, HENRY, KING, PATERSON, and HAWKINS, be added to the committee appointed the 11th February, "to report (if they think it expedient) a plan for the regulation of the trade of the United States with the countries and settlements of the European powers in America."

MARCH 5, 1790.]

Proceedings.

[SENATE.]

Ordered, That Messrs. BASSETT, FEW, HENRY, KING, PATERSON and ELLSWORTH, be added to the Committee appointed the 24th February, to consider "what measures may be necessary to be adopted relative to the inspection of exports from the United States; and, if they think proper, to prepare a bill on that subject.

MONDAY, March 1.

No material business done to-day.

TUESDAY, March 2.

A message from the House of Representatives informed the Senate, that they have passed a bill to vest in Francis Bailey the exclusive privilege of making, using, and vending to others, punches for stamping the matrices of types, and impressing marks on plates, or any other substance, to prevent counterfeits, upon a principle by him invented, for a term of years; to which they desire the concurrence of the Senate.

Ordered, That the bill, entitled "An act to vest in Francis Bailey the exclusive privilege of making, using, and vending to others, punches for stamping the matrices of types, and impressing marks on plates, or any other substance to prevent counterfeits, upon a principle by him invented, for a term of years," have the first reading at this time.

Ordered, That this bill have the second reading to-morrow.

WEDNESDAY, March 3.

Proceeded to the second reading of the bill, to vest in Francis Bailey the exclusive privilege of making, using, and vending to others, punches for stamping the matrices of types, and impressing marks on plates, or any other substance, to prevent counterfeits, upon a principle by him invented, for a term of years.

Ordered, That this bill be committed to Messrs. STRONG, ELLSWORTH, HAWKINS, FEW, and HENRY.

Mr. ELLSWORTH, on behalf of the committee appointed February 23d, reported a bill "to accept a cession of the claim of the State of North Carolina to a certain district of Western territory."

Ordered, That the rules be so far dispensed with as that this bill have the first reading at this time.

Ordered, That to-morrow be assigned for the second reading of this bill.

Ordered, "That the Secretary of the Treasury direct the respective collectors, in the several ports of the United States, not to clear out any vessel having articles on board subject to inspection by the laws of the State, from which such vessel shall be about to depart, without having previously obtained such manifests, and other documents, as are enjoined by the said laws."

The consideration was deferred.

THURSDAY, March 4.

Mr. STRONG, on behalf of the committee appointed the 3d of March, to take into consideration the bill to vest in Francis Bailey the exclusive privilege of making, using, and vending to others, punches for stamping the matrices of types, and impressing marks on plates, or any other substance, to prevent counterfeits, upon a principle by him invented, for a term of years, reported, that the consideration thereof be postponed until a "bill to promote the progress of useful arts" shall be taken into consideration.

Resolved, That this report be accepted.

The Senate proceeded to the second reading of the bill, "to accept a cession of the claims of the State of North Carolina to a certain district of Western territory."

Ordered, That to-morrow be assigned for the third reading of this bill.

The Senate proceeded to consider the motion made yesterday, and deferred to this morning, to wit: "That the Secretary of the Treasury direct the respective collectors, in the several ports of the United States, not to clear out any vessel having articles on board subject to inspection by the laws of the state, from which such vessels shall be about to depart, without having previously obtained such manifest and other documents, as are enjoined by the said laws."

Ordered, That the motion be committed to Messrs. IZARD, STRONG, and BASSETT, and that the committee be instructed to report a bill upon the subject matter of it, if a bill shall appear to them necessary.

A message from the House of Representatives informed the Senate, that they have passed a bill to establish a uniform rule of naturalization; to which they request the concurrence of the Senate.

Ordered, That this bill be now read the first time.

Ordered, That this bill have the second reading on Monday next; and that it be printed, in the mean time, for the use of the Senate.

FRIDAY, March 5.

The Senate proceeded to the third reading of the bill, "to accept the cession of the claims of the State of North Carolina to a certain district of Western territory."

Ordered, That this bill do pass; that the title be "An act to accept the cession of the claims of the State of North Carolina to a certain district of Western territory;" that it be engrossed and sent to the House of Representatives for their concurrence.

Mr. IZARD, on behalf of the committee appointed the 4th of March, reported: whereupon,

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the respective collectors, in the several ports of the United States, be directed not to grant a clearance for any ship or vessel having articles on board subject to

SENATE.]

Proceedings.

[MARCH 12, 1790.]

inspection by the laws of the State from which such ship or vessel shall be about to depart, without having previously obtained such manifests, and other documents, as are enjoined by the said laws.

Ordered, That this resolve be sent to the House of Representatives for their concurrence.

MONDAY, March 8.

A message from the President of the United States informed the Senate, that the Legislature of Delaware agree to and ratify the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the proposed amendments to the Constitution submitted by Congress to their consideration.

Ordered, That the message from the President of the United States, of this day, with the papers accompanying it, lie for consideration.

A message from the House of Representatives informed the Senate that they have passed a bill to provide for the remission or mitigation of fines, forfeitures, and penalties in certain cases, to which they request the concurrence of the Senate.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill to establish an uniform rule of naturalization; and after progress, deferred the further consideration thereof until to-morrow.

TUESDAY, March 9.

Ordered, That the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases, be now read the first time.

Ordered, That this bill have the second reading to-morrow.

The Senate proceeded in the second reading of the bill to establish an uniform rule of naturalization.

Ordered, That the bill be committed to Messrs. HENRY, KING, STRONG, ELLSWORTH, and JOHNSTON.

The Senate then entered on Executive business.

Mr. STRONG reported on behalf of the Committee to whom were referred the messages from the President of the United States, of the ninth and eighteenth of February, respecting "the difference that subsists between Great Britain and the United States, relative to the Eastern boundary;" which report was read, and ordered to lie till to-morrow.

WEDNESDAY, March 10.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill to provide for the remission or mitigation of fines, forfeitures, and penalties in certain cases.

Ordered, That the consideration of the bill be postponed until to-morrow.

The Senate then entered on Executive business.

Agreeably to the order of the day, the Senate proceeded to consider the report of the Committee to whom were referred the messages from

the President of the United States of the ninth and eighteenth of February, respecting the "difference that subsists between Great Britain and the United States, relative to the Eastern boundary;" which is as follows:

That, in their opinion, effectual measures should be taken as soon as conveniently may be, to settle all disputes with the crown of Great Britain relative to that line.

That it would be proper to cause a representation of the case to be made to the Court of Great Britain, and to propose that Commissioners be appointed to hear and finally decide those disputes, in the manner pointed out in the report of the late Secretary of the United States for the Department of Foreign Affairs, of the 21st of April, 1785, a copy of which report accompanied the first of the said messages.

And that measures should be taken to perpetuate the testimonies of JOHN MITCHELL and NATHAN JONES, who were appointed by the late Governor BARNARD, in 1764, to ascertain the river St. Croix.

Ordered, That the further consideration hereof be postponed.

THURSDAY, March 11.

A message from the House of Representatives informed the Senate, that they have passed a bill to promote the progress of useful arts; also, a bill for increasing the salaries of Clerks in the office of the Commissioners for settling accounts between the United States and individual States, to which they request the concurrence of the Senate.

The Senate proceeded in the second reading of the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases, and it was committed to Messrs. MORRIS, IZARD, STRONG, HENRY, and LANGDON.

Ordered, That the bill to promote the progress of useful arts have its first reading at this time.

Ordered, That this bill be read a second time on Monday next; and that, in the mean time, it be printed for the use of the Senate.

Ordered, that the bill for increasing the salaries of Clerks in the office of the Commissioners for settling accounts between the United States and individual States have the first reading at this time.

Ordered, That to-morrow be assigned for the second reading of this bill.

FRIDAY, March 12.

The Senate proceeded to the second reading of the bill for increasing the salaries of clerks in the office of the Commissioners for settling accounts between the United States and individual States, and the further consideration thereof was postponed.

Mr. HENRY, on behalf of the committee appointed the ninth of March, to consider the bill to establish an uniform rule of naturalization, reported; and the consideration of the report was postponed.

MARCH 22, 1790.]

Proceedings.

[SENATE.]

It being suggested that the Committees wanted time to perfect their reports,
The Senate adjourned.

MONDAY, March 15.

Mr. CARROLL, from Maryland, attended.

Mr. MORRIS, on behalf of the committee appointed on the 11th instant, upon the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases, reported amendments, which were postponed to the third reading of the bill.

Ordered, That to-morrow be assigned for the third reading of this bill.

The Senate proceeded, agreeably to the order of the day, to the second reading of the bill to promote the progress of useful arts.

Ordered, That it be committed to Messrs. CARROLL, JOHNSON, MACLAY, FEW and PATERSON.

The Senate proceeded to consider the report of the committee upon the bill to establish an uniform rule of naturalization; and after progress, went into consideration of the Executive business postponed the 10th of March.

On motion, the Senate proceeded to consider the report of the Committee appointed upon the President's messages of the 9th and 18th of February, respecting the difference that subsists between Great Britain and the United States, relative to the Eastern boundary."

Ordered, That the consideration hereof be further postponed.

TUESDAY, March 16.

The Senate proceeded to the third reading of the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases; and the report of the Committee being read, after debate, the further consideration of the bill was postponed until to-morrow.

The Senate proceeded in the consideration of the report of the committee on the bill to establish an uniform rule of naturalization; and the report of the committee thereon being read,

Ordered, That the further consideration hereof be postponed until to-morrow.

Ordered, That the bill to vest in Francis Bailey the exclusive privilege of making, using and vending to others, punches for stamping the matrices of types and impressing marks on plates, or any other substance, to prevent counterfeits, upon a principle by him invented for a term of years, be referred to the committee appointed yesterday to take into consideration the bill to promote the progress of useful arts."

A message from the House of Representatives informed the Senate that they have passed a bill making appropriations for the support of Government for the year one thousand seven hundred and ninety; to which they request the concurrence of the Senate.

Ordered, That this bill have its first reading at this time.

Ordered, That this bill have the second reading to-morrow.

A message was received from the President of the United States, informing the Senate, that the Legislature of Pennsylvania had ratified and confirmed the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of the proposed Amendments to the Constitution submitted to that body by Congress.

WEDNESDAY, March 17.

The Senate proceeded to the second reading of the bill making appropriations for the support of government for the year one thousand seven hundred and ninety.

Ordered, That the further consideration of this bill be deferred until to-morrow.

The Senate proceeded in the third reading of the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases; and the report of the committee thereon being taken into consideration,

Ordered, That the rules be so far dispensed with, as that this bill be again committed to a special committee, to consist of Messrs. READ, MORRIS, STRONG, ELLSWORTH, and BASSETT.

The Senate proceeded in the second reading of the bill to establish an uniform rule of naturalization; and the report of the committee thereon being considered,

Ordered, That the further consideration of this bill be postponed until to-morrow.

THURSDAY, March 18.

The Senate proceeded in the second reading of the bill to establish an uniform rule of naturalization.

Ordered, That to-morrow be assigned for the third reading of this bill.

The Senate proceeded in the consideration of the bill making appropriations for the support of Government for the year 1790.

Ordered, That it be committed to Messrs. FEW, JOHNSTON, BUTLER, IZARD, and LANGDON.

FRIDAY, March 19.

Mr. READ, on behalf of the committee appointed March the 17th, to take into consideration the bill to provide for the remission or mitigation of fines, forfeitures, and penalties in certain cases, reported; which report was accepted as an amendment to the bill.

Resolved, That this bill do pass, with an amendment.

The Senate proceeded, agreeably to the order of the day, to the third reading of the bill to establish an uniform rule of naturalization.

Resolved, That this bill do pass, with an amendment.

Ordered, That a message be sent to the House of Representatives, to acquaint them therewith, and to request their concurrence in the amendment.

MONDAY, March 22.

The petition of Nathaniel Tracy was read,

SENATE.]

Proceedings.

[MARCH 26, 1790.]

praying that a law might be enacted for the relief of unfortunate merchants, from embarrassments arising solely from inevitable mercantile misfortunes."

Ordered, That this petition lie on the table. A message from the House of Representatives inform the Senate, that they have agreed to the amendment proposed by the Senate to the bill to establish an uniform rule of naturalization.

The petition of John Fitch was read, praying that a clause providing for the trial by jury might be inserted in a bill before Congress, "to promote the progress of useful arts."

Ordered, That this petition be referred to the committee who have under consideration the last mentioned bill.

The committee, to whom was referred the bill making appropriations for the support of Government for the year 1790, reported; which report was accepted as amendments to the bill.

The Senate proceeded in the second reading of the bill making appropriations for the support of Government for the year 1790.

Ordered, That the rules be so far dispensed with, as that this bill have a third reading at this time.

Resolved, That this bill do pass with three amendments.

Ordered, That a message be sent to the House of Representatives to acquaint them herewith, and to request their concurrence in the amendments.

TUESDAY, March 23.

A message from the House of Representatives informed the Senate that they have concurred in all the amendments proposed by the Senate to the bill making appropriations for the support of Government, for the year 1790; except the last, in which they concur with an amendment, as follows: "To Gifford Dally, door-keeper to the House of Representatives, one hundred and ninety-two dollars, and to James Mathers, door-keeper to the Senate, ninety-six dollars."

The Senate proceeded to consider the amendment of the House of Representatives to the last amendment of the Senate to the bill making appropriations for the support of Government for the year 1790.

Resolved, That the Senate do not agree to the amendment proposed by the House of Representatives, but that they do insist on their own amendment.

Ordered, That a message be sent to the House of Representatives accordingly.

WEDNESDAY, March 24.

A message from the House of Representatives informed the Senate, that they recede from their amendment to the last amendment of the Senate the bill, entitled "An act making appropriations for the support of Government, for the year 1790," and concur in the amendment of the Senate.

The Senate then entered on Executive business.

The Senate proceeded in the further consideration of the report of the committee to whom were referred the messages from the President of the United States, of the 9th and 18th of February, 1790, respecting the "difference that subsists between Great Britain and the United States, relative to the Eastern boundary;" which being amended, was accepted.

Whereupon,

Resolved, That the Senate do advise that effectual measures should be taken, as soon as conveniently may be, to settle all disputes with the crown of Great Britain relative to that line.

That it would be proper to cause a representation of the case to be made to the Court of Great Britain; and if the said disputes cannot be otherwise amicably adjusted, to propose that Commissioners be appointed to hear and finally decide those disputes, in the manner pointed out in the report of the late Secretary of the United States for the Department of Foreign Affairs, of the 21st of April, 1785, a copy of which report accompanied the first of the said messages.

And that measures should be taken to perpetuate the testimony of John Mitchell and Nathan Jones, who were appointed by the late Governor BARNARD in 1764, to ascertain the river St. Croix, and of any other persons who may have useful information on this subject.

Ordered, That a copy of this resolution be laid before the President of the United States, and the original papers returned to the office of the Secretary of State.

THURSDAY, March 25.

A message from the House of Representatives informed the Senate, that they disagree to the amendment of the Senate upon the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases, and request a conference on the subject matter of disagreement; and have appointed Messrs. AMES, HUNTINGTON, and JACKSON, managers of the conference on their part.

The Senate proceeded to appoint Messrs. STRONG, ELSWORTH, and READ, managers of the conference requested on the disagreeing votes of the Senate and House of Representatives, on the bill to provide for the remission or mitigation of fines, forfeitures and penalties, in certain cases.

FRIDAY, March 26.

The petition of merchants and traders of the town of Portsmouth, New Hampshire, praying that a law might be enacted "for the establishment of the foreign trade of the United States upon principles of reciprocal benefit, becoming the dignity of a free and independent nation; and also, for an alteration in the law to establish the Judicial Courts of the United States, so far as that the District and Circuit Courts, for the State of New Hampshire, may be held in the town of Portsmouth," was read.

MARCH 30, 1790.]

Proceedings.

[SENATE.]

Ordered, That so much of this petition as respects the regulation of trade be referred to the committee appointed February 11th, to report, if they think it expedient, a plan for the regulation of the trade of the United States with the countries and settlements of the European powers in America.

And that so much of the said petition as respects the places for holding the District and Circuit Courts in the State of New Hampshire, be referred to the committee appointed January 15th, 1790, to bring in a bill, in addition to "An act to establish the Judicial Courts of the United States."

The memorial of the officers of the late Navy of the United States, praying that the same emoluments that were granted to the officers of the late continental army, may be extended to them, was read.

Ordered, That this memorial lie on the table.

A message from the House of Representatives informed the Senate, that they have had under consideration the confidential communications from the President of the United States, of the 12th January, to the Senate and House of Representatives, and have passed a bill upon that subject, to which they request the concurrence of the Senate.

Ordered, That the bill for regulating the military establishment of the United States have the first reading at this time.

Ordered, That Monday next be assigned for the second reading of this bill, and that, in the mean time, it be printed for the use of the Senate.

MONDAY, March 29.

Mr. CARROLL, on behalf of the committee appointed March 15th, to consider the bill to promote the progress of useful arts, and the bill to vest in Francis Bailey the exclusive privilege of making, using and vending to others, punches for stamping the matrices of types, and impressing marks on plates or any other substance, to prevent counterfeits, upon a principle by him invented, for a term of years, together with the petition of John Fitch, reported, which report was accepted as amendments to the first mentioned bill.

Ordered, That the bill to promote the progress of useful arts, have the third reading to-morrow.

A message from the House of Representatives informed the Senate, that they have passed another bill upon the subject of the confidential communications made by the President of the United States, in which they request the concurrence of the Senate; that they have also passed a bill to prevent the exportation of goods not duly inspected according to the laws of the several States, in which they request the concurrence of the Senate; and that they have considered the bill to accept a cession of the claims of the State of North Carolina to a certain district of Western Territory, and have concurred with the Senate therein, with an amendment,

to which amendment they request the concurrence of the Senate.

The Senate proceeded to the first reading of the bill providing for holding a treaty or treaties, to establish peace with certain Indian tribes.

Ordered, That this bill have a second reading on Monday next.

The Senate proceeded to the first reading of the bill to prevent the exportation of goods not duly inspected according to the laws of the several States.

Ordered, That this bill have the second reading to-morrow.

The Senate proceeded to consider the amendment of the House of Representatives to the bill to accept a cession of the claims of the State of North Carolina to a certain district of Western Territory.

Resolved, That they concur in the amendment of the House of Representatives, with an amendment.

The Senate proceeded to the second reading of the bill for regulating the military establishment of the United States, but adjourned without taking a question upon it.

TUESDAY, March 30.

The Senate proceeded in the second reading of the bill for increasing the salaries of clerks in the office of the Commissioners for settling accounts between the United States and individual States; and, on motion to assign a time for the third reading of the bill.

It passed in the negative.

The Senate proceeded to the third reading of the bill to promote the progress of useful arts; and,

Resolved, That this bill do pass with twelve amendments.

Ordered, That a message be sent to the House of Representatives, to acquaint them therewith, and to request their concurrence in the amendments.

A message from the House of Representatives informed the Senate, that they have agreed to the amendment of the Senate, to their amendment to the bill, to accept a cession of the claims of the State of North Carolina to a certain district of Western Territory.

The Senate proceeded to the second reading of the bill, to prevent the exportation of goods not duly inspected according to the laws of the several States; and,

Ordered, That to-morrow be assigned for the third reading of this bill.

The Senate proceeded in the second reading of the bill, for regulating the military establishment of the United States.

Ordered, That this bill be committed to Messrs. FEW, ELLSWORTH, BUTLER, SCHUYLER, CARROLL, LANGDON, and STRONG.

The Senate then entered on Executive business.

The following message of the President of the United States was read:

SENATE.]

Proceedings.

[APRIL 7, 1790.]

UNITED STATES, March 30, 1790.

Gentlemen of the Senate:

I nominate the following persons to fill the offices which are affixed to their respective names, viz:

Rufus Putnam, to be one of the Judges in the Western Territory, in the place of Samuel Holden Parsons, deceased.

James Brown, to be Attorney for the United States in the district of Kentucky, in the place of George Nicholas, who has declined his appointment.

Henry Bogart, of Albany, to be the Surveyor of the port of Albany, in the place of Jeremiah Lansingh, resigned.

GEORGE WASHINGTON.

WEDNESDAY, March 31.

The Senate proceeded to the third reading of the bill to prevent the exportation of goods not duly inspected according to the laws of the several States.

Resolved, That this bill do pass.

The Senate entered on Executive business, and confirmed the several nominations to office which were made to them yesterday by the President of the United States.

THURSDAY, April 1.

Ordered, That Messrs. ELLSWORTH, FEW, and WINGATE, be a committee to state the compensation due to the members of the Senate, for the present session, to the 31st March, inclusive.

Adjourned to Saturday next.

SATURDAY, April 3.

A message from the President of the United States informed Congress, that the Legislature of South Carolina had adopted the articles proposed by them to the Legislatures of the several States, as amendments to the Constitution of the several States.

Mr. ELLSWORTH, from the committee appointed to state the compensation due to the members of the Senate for the present session, reported the sums due to each, which was

Ordered, To lie on the table.

MONDAY, April 6.

A message from the House of Representatives informed the Senate, that they agree to all the amendments of the Senate to the bill to promote the progress of useful arts, except the tenth, to which they do not agree.

The Senate proceeded to consider the message from the House of Representatives, together with the bill to provide for the progress of useful arts, and the disagreement of the House of Representatives to their tenth amendment; and

Resolved, That the Senate do recede from the said amendment.

Mr. STRONG, on behalf of the managers appointed, the 25th March, to confer with a committee of the House of Representatives on the

amendments of the Senate to the bill to provide for the remission or mitigation of fines, forfeitures, and penalties in certain cases, reported, "That, having conferred with the managers on the part of the House of Representatives, they could come to no agreement on the subject matter of the said amendments."

The Senate proceeded to the second reading of the bill providing for holding a treaty or treaties, to establish peace with certain Indian tribes.

Ordered, That the consideration thereof be postponed.

The following message from the President of the United States was communicated to the Senate by his Secretary:

*Gentlemen of the Senate and**House of Representatives:*

I have directed my private Secretary to lay before you copies of three acts of the Legislature of the State of New York, which have been transmitted to me by the Governor thereof, viz.

"An act declaring it to be the duty of the sheriffs of the several counties within this State, to receive and safe keep such prisoners as shall be committed under the authority of the United States;"

"An act for vesting in the United States of America the light-house, and the lands thereunto belonging, at Sandy Hook;" and

"An act ratifying certain articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress."

A copy of a letter, accompanying said acts, from the Governor of the State of New York to the President of the United States, will, at the same time, be laid before you, and the originals be deposited in the office of the Secretary of State.

GEO. WASHINGTON.

UNITED STATES, April 6, 1790.

TUESDAY, April 6.

Mr. FEW reported, from the committee appointed on the 30th March, to take into consideration the bill for regulating the military establishment of the United States.

On motion that the consideration of the report be postponed,

It passed in the affirmative.

WEDNESDAY, April 7.

Ordered, That Messrs. ELLSWORTH, JOHNSTON, and STRONG, be a committee to bring in a bill for the government of the territory of the United States south of the river Ohio.

A message from the House of Representatives informed the Senate, that they have passed a bill further to suspend part of an act, entitled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States;" in which they request the concurrence of the Senate.

Ordered, That this bill have the first reading at this time.

Ordered, That to-morrow be assigned for the second reading of this bill.

APRIL 14, 1790.]

Proceedings.

[SENATE.]

THURSDAY, April 8.

Agreeably to the order of the day, the Senate proceeded in the second reading of the bill further to suspend part of an act, entitled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States."

Ordered, That this bill be committed to Messrs. LANGDON, ELLSWORTH, and DALTON.

FRIDAY, April 9.

Mr. LANGDON reported from the committee appointed on the 8th of April, on the bill further to suspend part of an act entitled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States;" which report was accepted as an amendment to the bill.

The Senate proceeded to the second reading of the last mentioned bill.

Ordered, That the rules be so far dispensed with as that this bill have the third reading at this time.

Resolved, That this bill do pass with two amendments.

Ordered, That the Secretary do carry a message to the House of Representatives, and request their concurrence in the amendments to this bill.

Mr. ELLSWORTH reported from the committee appointed April 7th, "A bill for the government of the territory of the United States south of the river Ohio."

Ordered, That this bill have the first reading at this time.

Ordered, That Monday next be assigned for the second reading of this bill.

MONDAY, April 12.

The Senate proceeded to the second reading of the bill "For the government of the territory of the United States south of the river Ohio," and

Ordered, That it be printed for the use of the Senate.

A message from the House of Representatives informed the Senate, that they adhere to their disagreement to the amendment proposed by the Senate to the bill to provide for the remission or mitigation of fines, forfeitures, or penalties, in certain cases; and that they concur in the bill for the punishment of certain crimes against the United States, with sundry amendments, to which they request the concurrence of the Senate;

They also concur with the Senate in their amendments to the bill further to suspend part of an act entitled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States."

The Senate proceeded to consider the adhe-

rence of the House of Representatives to their amendment to the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases.

Ordered, That the further consideration thereof be postponed until to-morrow.

The amendments of the House of Representatives to the bill for the punishment of certain crimes against the United States, were read; And, on motion,

Ordered, That they lie until to-morrow for consideration.

TUESDAY, April 13.

JAMES GUNN, from Georgia, attended.

The Senate proceeded to consider the resolve of the House of Representatives, adhering to their disagreement to the amendment of the Senate to the bill to provide for the remission or mitigation of fines, forfeitures, and penalties, in certain cases, and,

Resolved, That the Senate do adhere to their amendment to the said bill.

Ordered, That the Secretary do carry a message to the House of Representatives accordingly.

The Senate proceeded to consider the amendments of the House of Representatives to the bill for the punishment of certain crimes against the United States, and,

On motion,

The further consideration thereof was postponed until to-morrow.

The Senate proceeded in the second reading of the bill "For the government of the territory of the United States south of the river Ohio."

Ordered, That this bill have the third reading to-morrow.

The Senate resumed the second reading of the bill for regulating the military establishment of the United States.

On motion to postpone the further consideration thereof, it passed in the affirmative.

WEDNESDAY, April 14.

The Senate proceeded to the third reading of the bill "For the government of the territory of the United States south of the river Ohio."

Resolved, That this bill do pass; that the title of it be "An act for the government of the territory of the United States south of the river Ohio;" that it be engrossed, and carried to the House of Representatives for concurrence therein.

The Senate resumed the consideration of the amendments to the bill for the punishment of certain crimes against the United States; whereupon,

Resolved, That they do agree to the amendments proposed in the 1st, 3d, 8th, 9th, 10th, 11th, 12th, 14th, 16th, 17th, 18th, 23d, 25th, and 27th sections; to the proposed amendments in section 19th, line 1; section 20th, line 1; section 26th, lines 9 and 10; and in the additional clause proposed to the bill;

That they do disagree to the amendments in section 19, line 2; section 20, line 3; section 26, line 2; and that they do agree to the amendments in section 28, with an amendment.

SENATE.]

Proceedings.

[APRIL 27, 1790.]

Ordered, That the Secretary do carry a message to the House of Representatives accordingly.

THURSDAY, April 15.

The Senate resumed the second reading of the bill to regulate the military establishment of the United States; and, after progress, the further consideration thereof was postponed.

FRIDAY, April 16.

The Senate proceeded in the consideration of the bill for regulating the military establishment of the United States.

On motion that the bill be recommitted, it passed in the affirmative.

MONDAY, April 19.

A message from the House of Representatives informed the Senate, that they have receded from such of their amendments to the bill for the punishment of certain crimes against the United States as were disagreed to by the Senate; and do concur with the Senate in the amendment to their amendment of the said bill.

TUESDAY, April 20.

Mr. FEW, from the committee appointed on the 30th March, to take under consideration the bill for regulating the military establishment of the United States, reported; which report, being considered, was adopted as amendments to the bill.

Ordered, That this bill have the third reading to-morrow.

WEDNESDAY, April 21.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill for regulating the military establishment of the United States.

Resolved, That this bill do pass with amendments.

Ordered, That a message be sent to the House of Representatives, requesting their concurrence in the amendments.

A message from the House of Representatives informed the Senate, that they had passed a bill for the relief of a certain description of officers therein mentioned, in which they request the concurrence of the Senate.

The Senate proceeded to the first reading of said bill.

Ordered, That this bill have the second reading to-morrow.

THURSDAY, April 22.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill for the relief of a certain description of officers therein mentioned.

Ordered, That this bill be committed to Messrs. SCHUYLER, HAWKINS, and ELLSWORTH.

FRIDAY, April 23.

Mr. STRONG, from the committee appointed January 19, reported a bill "to continue in force an act, passed at the last session of Congress, 'to regulate processes in the courts of the United States;'" which was read the first time.

Ordered, That this bill have the second reading on Monday next.

A message from the House of Representatives informed the Senate, that they had agreed to the amendments of the Senate to the bill for regulating the military establishment of the United States, with an amendment to the 8th amendment of the 5th section, by inserting the words "twenty-four," instead of "eighteen," proposed by the Senate to be inserted.

The Senate proceeded to consider the above message from the House of Representatives; and,

Resolved, That they do recede from their amendment to said bill, so far as to concur with the House of Representatives in their amendment to the amendment.

Ordered, That a message be carried to the House of Representatives accordingly.

Mr. SCHUYLER, from the committee appointed yesterday, to take into consideration the bill for the relief of a certain description of officers therein mentioned, reported:

And, on the question, "Shall this bill have a third reading?" it passed in the negative.

MONDAY, April 26.

The petition of Messrs. Bertier and Co. merchants of the city of Philadelphia, was read, stating, that certain goods consigned to them on board of the ship Van Staphorst, Captain Atkinson, were seized by one of the inspectors of the port of Baltimore, in consequence of a mistake committed by the mate of the said ship, although without any intention of fraud; and praying that Congress would make such provision for their relief, in an act said to be under the consideration of Congress, as in their wisdom shall seem just.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill, "To continue in force an act, passed at the last session of Congress, entitled 'An act to regulate processes in the courts of the United States;'"

Ordered, That this bill have the third reading to-morrow.

TUESDAY, April 27.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill, "To continue in force an act, passed at the last session of Congress, to regulate processes in the courts of the United States;" and,

Resolved, That this bill do pass; that the title of it be, "An act to continue in force an act, passed at the last session of Congress, entitled 'An act to regulate processes in the courts of the United States;'"

APRIL 30, 1790.]

Proceedings.

[SENATE.]

that the bill be engrossed, and carried to the House of Representatives for concurrence therein.

On motion,

Ordered, That Mr. LEE be added to the committee, appointed 11th February, "to report a plan for the regulation of the trade of the United States, with the countries and settlements of the European powers in America," and to whom also was referred the petition of the merchants of New Hampshire.

WEDNESDAY, April 28.

On motion,

Ordered, That MESSRS. CARROLL, ELLSWORTH, MORRIS, IZARD, and BUTLER, be a committee to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island.

The Senate then entered on Executive business.

The following message from the President of the United States was read:

UNITED STATES, April 28th, 1790.

Gentlemen of the Senate:

I nominate George Wray, to be Collector of the port of Hampton, in the State of Virginia, in the place of Jacob Wray, resigned. Also,

John McCollough, to be Surveyor of the port of Swansborough, in the district of Wilmington; and,

William Benson, to be Surveyor of the port of Windsor, in the district of Edenton, both in the State of North Carolina.

G. WASHINGTON.

Ordered, That the message lie for consideration.

THURSDAY, April 29.

Mr. ELLSWORTH, from the committee appointed 15th January, to bring in a bill in addition to an act to establish the Judicial Courts of the United States, and to whom was referred the petition of the merchants of New Hampshire, reported a bill "for giving effect to the acts therein mentioned, in respect to the State of North Carolina, and to amend the said act."

Ordered, That this bill be now read the first time.

Ordered, That this bill be read the second time to-morrow.

On motion "That the doors of the Senate Chamber shall be open when the Senate is sitting in their Legislative capacity, to the end, that such of the citizens of the United States as may choose to hear the debates of this House, may have an opportunity of so doing:"

A motion was made, that the consideration thereof be postponed until to-morrow; and it passed in the affirmative.

Ordered, That Mr. STRONG be added to the committee appointed the 28th April, "to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island," instead of Mr. BUTLER, excused at his own desire, his colleague being on the committee.

The Senate then entered on Executive business, and advised and consented to the nominations yesterday made to them by the President.

FRIDAY, April 30.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill "for giving effect to the acts therein mentioned, in respect to the State of North Carolina, and to amend the said act."

Ordered, That this bill have the third reading on Monday next.

A message from the House of Representatives informed the Senate, that they had passed a bill supplemental to the act for establishing the salaries of the Executive officers of Government, with their assistants and clerks; a bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned; a bill providing the means of intercourse between the United States and foreign nations; and, a bill to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned; to which they request the concurrence of the Senate.

The House of Representatives have also concurred in the bill to continue in force an act passed at the last session of Congress, entitled "An act to regulate processes in the courts of the United States;" and in the bill for the government of the territory of the United States south of the river Ohio, with amendments; to which amendments they request the concurrence of the Senate.

The House of Representatives have also appointed MESSRS. SHERMAN, SMITH, (of South Carolina,) and VINING, a committee to confer with any committee to be appointed by the Senate, to consider and report whether any, and what, further regulations are necessary for conducting the business between the two Houses; to which they request the concurrence of the Senate.

The bill supplemental to the act for establishing the salaries of the Executive officers of Government, with their assistants and clerks, was read the first time.

The bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned, was read the first time.

The bill providing the means of intercourse between the United States and foreign nations, was read the first time; and,

The bill to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned, was read the first time.

Ordered, That these several bills have their second reading on Monday next.

The Senate proceeded, agreeably to the order

SENATE.]

Proceedings.

[MAY 4, 1790.]

of the day, to consider the motion made yesterday, to-wit: "That the doors of the Senate Chamber shall be open when the Senate is sitting in their Legislative capacity, to the end, that such of the citizens of the United States as may choose to hear the debates of this House, may have an opportunity of so doing;" and, the question being taken, it passed in the negative.

The Senate proceeded to consider the resolve of the House of Representatives, appointing a committee on their part, "to confer with any committee appointed by the Senate, to consider and report whether any, and what, further regulations are necessary for conducting the business between the two Houses;" and

Resolved, That the Senate concur therein, and that Messrs. LEE, IZARD, and STRONG be the committee on the part of the Senate.

Ordered, That the Secretary acquaint the House of Representatives herewith.

MONDAY, May 3

The order of the day being called for, the Senate proceeded to the second reading of the bill supplemental to the act for establishing the salaries of the Executive officers of Government, with their assistants and clerks.

Ordered, That this bill be committed to Messrs. FEW, IZARD, and ELLSWORTH, to consider and report what is proper to be done thereon.

The Senate proceeded to the second reading of the bill providing the means of intercourse between the United States and foreign nations.

Ordered, That this bill be committed to Messrs. STRONG, ELLSWORTH, CARROLL, MACLAY, and FEW.

A message from the House of Representatives informed the Senate, that they had passed a bill to allow compensation to John Ely for his attendance as a physician and surgeon on the prisoners of the United States; and, that they had passed a bill to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State; in which they request the concurrence of the Senate; and, that they have also appointed Messrs. BENSON, CLYMER, HUNTINGTON, MOORE, and CARROLL, a committee, to join with a committee to be appointed by the Senate, to consider and report their opinion on the question, "When, according to the Constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced?" and, also, to consider of, and report, their opinion on such other matters as they shall conceive have relation to this question; and request the concurrence of the Senate in the appointment of a committee on their part.

The Senate proceeded to the consideration of the resolve of the House of Representatives, appointing a committee to confer on the question recited in their message of this day.

Resolved, That the Senate do concur therein, and that Messrs. ELLSWORTH, KING, and MORRIS, be appointed to confer on the part of the Senate.

The Senate proceeded to the third reading of the bill "for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act."

Resolved, That this bill do pass; that the title of it be "An act for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act;" that it be engrossed, and carried to the House of Representatives for concurrence therein.

The Senate proceeded to the first reading of the bill to prescribe the mode in which the public acts, records, and judicial proceedings, in each State shall be authenticated, so as to take effect in every other State.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill, entitled "An act to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned;" and, after progress, the Senate adjourned.

TUESDAY, May 4.

Agreeably to the order of the day, the Senate resumed the consideration of the amendments to the bill for the government of the territory of the United States south of the river Ohio.

Resolved, That the Senate do not agree to the proposed amendments.

Ordered, That a message be sent to the House of Representatives, to acquaint them therewith.

The Senate proceeded to the third reading of the bill to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned.

Resolved, That they concur therein, with amendments.

Ordered, That the Secretary acquaint the House of Representatives therewith, and request their concurrence in the amendments.

The Senate proceeded to the second reading of the bill to prescribe the mode in which the public records and judicial proceedings in each State shall be authenticated, so as to take effect in every other State.

Ordered, That this bill have the third reading to-morrow.

The Senate resumed the second reading of the bill providing for holding a treaty or treaties, to establish peace with certain Indian tribes.

Ordered, That the consideration hereof be further postponed.

The Senate proceeded to the second reading of the bill for the encouragement of learning,

MAY 11, 1790.]

Proceedings.

[SENATE.]

by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned.

Ordered, That it be committed to Messrs. REED, PATERSON, and JOHNSON.

A message from the House of Representatives informed the Senate, that they have passed a bill to authorize the issuing of certificates to a certain description of invalid officers, in which they request the concurrence of the Senate.

Ordered, That the bill last mentioned be now read the first time.

Ordered, That this bill have the second reading to-morrow.

WEDNESDAY, May 5.

The Senate proceeded to the third reading of the bill to prescribe the mode in which the public acts, records and judicial proceedings, in each State shall be authenticated, so as to take effect in every other State, which was passed.

The Senate proceeded to the second reading of the bill to authorize the issuing of certificates to a certain description of invalid officers.

Ordered, That it be committed to Messrs. SCHUYLER, HAWKINS, and ELLSWORTH.

Mr. CARROLL reported, from the committee appointed the 28th of April, "to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island."

Ordered, That Monday next be assigned to take this report into consideration.

The following letter was read, which, with a volume of the work therein mentioned, was laid on the table, by Mr. MORRIS:

To the honorable Senators of the United States in Congress assembled.

Thomas Dobson begs leave to present, in succession, as they are published, the volumes of the American edition of the Encyclopædia, which he is now printing and publishing; and, at the same time, to solicit the patronage and encouragement of gentlemen in an undertaking of such magnitude and utility.

Philadelphia, 1st May, 1790.

THURSDAY, May 6.

A message from the House of Representatives informed the Senate, that they recede from their amendments to the bill for the government of the territory of the United States south of the river Ohio, and agree to the amendments of the Senate to the bill to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws, in certain cases therein mentioned.

FRIDAY, May 7.

Mr. STRONG reported, from the committee appointed May the 3d, on the bill providing the means of intercourse between the United States and foreign nations.

Ordered, That the consideration of the report be postponed until Monday next.

MONDAY, May 10.

The Senate proceeded to consider the report of the committee appointed on the bill providing the means of intercourse between the United States and foreign nations; whereupon,

Ordered, That this bill be recommitted.

A message from the House of Representatives informed the Senate, that they have passed the bill sent from the Senate for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act, with amendments; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the committee appointed on the 28th of April, to consider what provision will be proper for Congress to make, in the present session, respecting the State of Rhode Island; and

Ordered, That the consideration hereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate, that they have passed a bill for finally adjusting and satisfying the claims of Frederick William de Steuben; to which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act.

Ordered, That the further consideration hereof be postponed until to-morrow.

The bill for finally adjusting and satisfying the claims of Frederick William de Steuben was read the first time.

Ordered, That this bill have the second reading to-morrow.

TUESDAY, May 11.

The Senate resumed the second reading of the bill for finally adjusting and satisfying the claims of Frederick William de Steuben.

Ordered, That it be committed to Messrs. MACLAY, STRONG, IZARD, ELLSWORTH, and JOHNSTON.

The Senate proceeded to consider the amendments proposed by the House of Representatives to the bill for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act.

Resolved, That the Senate disagree to the amendment, section 3d, line 8th;

That they disagree to the proposition to "strike out the last section" of the bill; but that they agree in the amendments proposed by the House of Representatives, so far as to subjoin these clauses to the bill, to wit:

And be it further enacted, That the stated district court for the district of Pennsylvania shall hereafter solely be held at the city of Philadelphia;

And be it further enacted, That, from and after the

SENATE.]

Proceedings.

[MAY 14, 1890.]

first day of January next, there shall be held annually, three sessions of the district court for the district of Kentucky, and no more; to commence on the second Mondays in each of the months of April, August, and November; any law to the contrary notwithstanding.

Ordered, That a message be sent to the House of Representatives accordingly.

The Senate proceeded to consider the report of the committee appointed the 28th of April, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island; whereupon,

Resolved, That all commercial intercourse between the United States and the State of Rhode Island, from and after the first day of July next, be prohibited, under suitable penalties; and that the President of the United States be authorized to demand of the State of Rhode Island, ——— dollars, to be paid into the Treasury of the United States by the ——— day of ——— next; which shall be credited to the said State, in account with the United States; and that a bill or bills be brought in for those purposes.

Ordered, That the committee who brought in the above report prepare and report a bill accordingly.

WEDNESDAY, May 12.

A message from the House of Representatives informed the Senate, that they have proceeded to consider such of their amendments to the bill sent from the Senate for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act, as were disagreed to by the Senate, and have

Resolved, That a conference be desired with the Senate, on the subject-matter of the said amendments; and that Messrs. WHITE, STEELE, FOSTER, LIVERMORE, and WILLIAMSON, be appointed managers at the same, on the part of House of Representatives.

The Senate proceeded to consider the last recited message; and

Resolved, That they concur in the proposed conference, that Messrs. JOHNSTON, LANGDON, HAWKINS, KING, and BUTLER, be managers thereof, on the part of the Senate.

Ordered, That a message be sent to the House of Representatives accordingly.

Mr. REED reported, from the committee appointed May the 4th, on the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned; the consideration of which report was postponed.

THURSDAY, May 13.

The Senate proceeded to consider the report of the committee on the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the

authors and proprietors of such copies, during the times therein mentioned; which report was agreed to as amendments to the bill.

Ordered, That to-morrow be assigned for the third reading of this bill.

Mr. MORRIS, from the committee appointed the 28th of April, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island, reported a bill on that subject, which was read the first time.

Ordered, That this bill have the second reading to-morrow.

Mr. ELLSWORTH reported, from the committee appointed May 3d, to consider and report their opinion on the question, when, according to the constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on, such other matters as they shall conceive have relation to this question.

Ordered, That this report lie for consideration.

FRIDAY, May 14.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned.

Resolved, That this bill do pass, with amendments.

Ordered, That a message be sent to the House of Representatives, to request their concurrence in the amendments.

The Senate proceeded to consider the report of the joint committee, appointed the 28th of April, which is as follows:

The committee of Senate, to join with a committee appointed by the House of Representatives, to consider and report their opinion on the question, when, according to the Constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on, such other matters as they should conceive to have relation to this question, report, as the opinion of the said joint committee:

That the terms for which the President, Vice President, Senators, and Representatives, of the United States, were respectively chosen, did, according to the constitution, commence on the 4th day of March, 1789; and so the Senators of the first class, and the Representatives, will not, according to the Constitution, be entitled, by virtue of the same election by which they hold seats in the present Congress, to seats in the next Congress, which will be assembled after the 3d day of March, 1791; and further, that, whenever a vacancy shall happen in the Senate or House of Representatives, and an election to fill such vacancy, the person elected will not, according to the Constitution, be entitled, by virtue of such election, to hold a seat beyond the time for which the Senator or Representative in whose stead such per-

MAY 18, 1890.]

Proceedings.

[SENATE.]

son shall have been so elected, would, if the vacancy had not happened, have been entitled to hold a seat.

That it will be advisable for the Congress to pass a law or laws for determining, agreeable to the provision in the first section of the second article of the Constitution, the time when the electors shall, in the year which will terminate on the 3d day of March, 1793, and so in every fourth year thereafter, be chosen, and the day on which they shall give their votes; for declaring what officer shall, in case of vacancy, both in the office of President and Vice President, act as President; for assigning a public office where the lists, mentioned in the second paragraph of the first section in the second article of the Constitution, shall, in case of vacancy in the office of President of the Senate, or his absence from the seat of Government, be, in the mean time, deposited; and for directing the mode in which such lists shall be transmitted: whereupon,

Resolved, That the Senate do agree to this report.

The Senate proceeded to the second reading of the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State.

And, on the question, to assign a time for the third reading of this bill, the yeas and nays being required by one-fifth of the Senators present:

YEAS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Johnson, Johnston, Izard, King, Langdon, Morris, Read, Schuyler, and Strong.—13.

NAYS.—Messrs. Butler, Elmer, Gunn, Henry, MacLay, Walker, and Wingate.—7.

So it was

Ordered, That this bill have the third reading on Monday next.

MONDAY, May 17.

The Senate proceeded to the third reading of the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State, and,

On motion,

Ordered, That this bill be recommitted.

TUESDAY, May 18.

A message from the House of Representatives informed the Senate, that they have agreed to all the amendments proposed by the Senate to the bill for the encouragement of learning, by securing the copies of maps, charts, books, and other writings, to the authors and proprietors of such copies, during the times therein mentioned. That they recede from their first amendment to the bill for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act; and in lieu thereof propose to strike out, in the last line of the third section, the words, "and Hillsborough alternately, beginning at the first." But they do insist on their second amendment to the said bill.

They also communicate the following resolves of the House of Representatives, in which the concurrence of the Senate is requested:

In the House of Representatives,
May 17, 1790.

Resolved, That the President of the United States be requested to cause to be forthwith transmitted to the Executives of the States of Virginia, North Carolina, and South Carolina, a complete list of the officers, non-commissioned officers, and privates, of the lines of those States respectively, who are entitled to receive arrears of pay due for services in the years 1782 and 1783, annexing the particular sum that is due to each individual; with a request to the Executives of the said States, to make known to the claimants, in the most effectual manner, that the said arrears are ready to be discharged on proper application.

Resolved, That the President of the United States be requested to cause the Secretary of the Treasury to take the necessary steps for paying, within the said States respectively, the money appropriated by Congress, on the twenty-ninth day of September, 1789, for the discharging the arrears of pay due to the troops of the lines of the said States respectively.

Resolved, That the Secretary of the Treasury, in cases where the payment has not been made to the original claimant in person, or to his representative, be directed to take order for making the payment to the original claimant, or to such person or persons only as shall produce a power of attorney, duly attested by two justices of the peace of the county in which such person or persons reside, authorizing him or them to receive a certain specified sum.

Mr. CARROLL, from the committee appointed April the 28th, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island, and to whom it was referred, to bring in a bill on that subject, reported several additional clauses to the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State; which report was agreed to as amendments to the bill.

The Senate proceeded to the third reading of the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State;

And, on the question, "Shall this bill pass?" the yeas and nays being required by one-fifth of the Senators present, were:

YEAS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Johnson, Johnston, Izard, King, Langdon, Morris, Reed, Schuyler, and Strong.—13.

NAYS.—Messrs. Butler, Elmer, Hawkins, Henry, Lee, MacLay, Walker, and Wingate.—8.

So it was *Resolved*, That this bill do pass, and that it be carried to the House of Representatives for concurrence therein.

Mr. JOHNSTON reported, from the managers of the conference on the amendments proposed

SENATE.]

Proceedings.

[MAY 25, 1796.]

by the House of Representatives to the bill for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act, that it is proper the circuit courts in the district of North Carolina be held at Newbern only, and not at Newbern and Hillsborough alternately, as the bill now provides. And that the district court for New Hampshire be held at Portsmouth only, agreeably to the provision made in the bill, as it passed in the Senate.

And the report was agreed to.

The Senate proceeded to consider the message from the House of Representatives of this day, communicating their resolve of the 17th of May, on their amendments to the bill for giving effect to the act therein mentioned, in respect to the State of North Carolina, and to amend the said act: whereupon,

Resolved, That the Senate do agree to the first amendment of the House of Representatives on the said bill, by striking out these words, section 3d, line 8th, after the word Newbern; "and Hillsborough alternately, beginning at the first."

Resolved, That the Senate do adhere to their disagreement to the second amendment of the House of Representatives, in which they propose to strike out the last section of the bill.

The Senate proceeded to consider the resolve of the House of Representatives of the 17th of May, "respecting certain arrearages of pay due to the non-commissioned officers and soldiers of the late Virginia, North Carolina, and South Carolina lines of the army."

Ordered, That the further consideration hereof be postponed.

WEDNESDAY, May 19.

The Senate proceeded to the consideration of the resolve of the House of Representatives of the 17th of May, respecting certain arrearages of pay due to the non-commissioned officers and soldiers of the late Virginia, North Carolina, and South Carolina lines of the army.

Ordered, That the resolve be committed to Messrs. ELLSWORTH, LEE, JOHNSTON, IZARD, and KING.

A message from the House of Representatives informed the Senate, that they have agreed to the report of the joint committee appointed to consider and report their opinion on the question, when, according to the Constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and have appointed a committee to report a bill pursuant to the last paragraph of the said report.

THURSDAY, May 20.

A message from the House of Representatives informed the Senate, that they adhere to their second amendment to the bill for giving effect to the act therein mentioned, in respect to the

State of North Carolina, and to amend the said act.

Mr. ELLSWORTH reported, from the committee appointed the 19th of May, on the resolve of the House of Representatives, respecting certain arrearages of pay due to the non-commissioned officers and soldiers of the late Virginia, North Carolina, and South Carolina lines of the army; which being considered,

Ordered, That the further consideration hereof be postponed until to-morrow.

FRIDAY, May 21.

The Senate proceeded to the consideration of the report of the committee appointed the 19th of May, on the resolve of the House of Representatives respecting certain arrearages of pay due to the non-commissioned officers and soldiers of the late Virginia, North Carolina, and South Carolina lines of the army, which being amended, were agreed to.

MONDAY, May 24.

Mr. MACLAY reported, from the committee appointed May the 11th, on the bill for finally adjusting and satisfying the claims of Frederick William de Steuben.

Ordered, That this report lie for consideration until to-morrow.

A message from the House of Representatives informed the Senate, that they have agreed to all the amendments to the resolve respecting certain arrearages of pay due to the non-commissioned officers and soldiers of the late Virginia, North Carolina, and South Carolina lines; and that they have passed a bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States, within the State of North Carolina;" to which they request the concurrence of the Senate.

The bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of North Carolina," was read the first time.

Ordered, That it have a second reading to-morrow.

The following resolution was offered:

Resolved, That Congress shall meet and hold their next session in the city of Philadelphia.

Ordered, That the consideration thereof be postponed until to-morrow.

TUESDAY, May 25.

Mr. STRONG, from the committee appointed for the purpose, reported a bill providing the means of intercourse between the United States and foreign nations, with an amendment, which was agreed to, and the bill was ordered to be read a third time to-morrow.

The Senate proceeded to consider the report of the committee on the bill for finally adjusting and satisfying the claims of Frederick de Steuben, which is as follows:

In the second line, strike out from the word "order" inclusive, to the end of the bill, and

MAY 28, 1790.]

Proceedings.

[SENATE.]

insert, "consideration of the eminent services of the Baron de Steuben, rendered to the United States during the late war, there be paid to him an annuity of one thousand dollars, to commence on the first day of January last, to be paid in quarterly payments at the Treasury of the United States;" and, after debate, the further consideration thereof was postponed until to-morrow.

The following message from the President of the United States was read:

UNITED STATES, May 25th, 1790.

Gentlemen of the Senate:

I nominate the following persons to fill the offices affixed to their names, viz.

Samuel Jasper, to be Surveyor of the port of Currituck Inlet, in the State of North Carolina.

Nathaniel Wilkins, to be Collector of the port of Cherrystone, in the State of Virginia, in the place of George Savage, who has resigned.

Henry Deering, to be Collector of the port of Sag Harbor, in the State of New York, in the place of John Gelston, who has resigned.

Thomas Davis Freeman, to be Surveyor of the port of Plymouth, in the State of North Carolina, in the place of Levy Blount, who has resigned.

Benjamin Bartlett, to be Surveyor of the port of Suffolk, in the State of Virginia, in the place of Archibald Richardson, who has resigned.

GEO. WASHINGTON.

Ordered, That the message lie for consideration.

WEDNESDAY, May 26.

The Senate proceeded to the third reading of the bill for providing the means of intercourse between the United States and foreign nations.

Resolved, That the Senate concur therein with an amendment.

The Senate proceeded to the consideration of the report of the committee on the bill for finally adjusting and satisfying the claims of Frederick William de Steuben.

And, on the question to agree to the report of the committee, the yeas and nays being required by one-fifth of the Senators present, were:

AYES.—Messrs. Ellsworth, Elmer, Few, Hawkins, Johnston, Langdon, Strong, and Wingate.—8.

NAYS.—Messrs. Bassett, Butler, Carrol, Dalton, Gunn, Henry, Johnson, Izard, King, Lee, Maclay, Morris, Patterson, Read, Schuyler, and Walker.—16.

So it passed in the negative.

On motion that the opinion of the Senate be taken, whether two thousand dollars, line 7th, shall stand in the bill: the yeas and nays being required by one fifth of the Senators present:

AYES.—Messrs. Bassett, Butler, Carrol, Gunn, Henry, Izard, King, Lee, Morris, Read, Schuyler, and Walker.—12.

NAYS.—Messrs. Dalton, Ellsworth, Elmer, Few, Hawkins, Johnson, Johnston, Langdon, Maclay, Patterson, Strong, and Wingate.—12.

The yeas and nays being equal, the Vice President determined the question in the affirmative.

On motion that these words, "the sum of seven thousand dollars, in addition to the moneys already received by him, and also," be stricken out of the bill; the yeas and nays being required by one-fifth of the Senators present:

AYES.—Messrs. Butler, Dalton, Ellsworth, Elmer, Few, Hawkins, Johnson, Langdon, Maclay, Patterson, Strong, and Wingate.—12.

NAYS.—Messrs. Bassett, Carrol, Gunn, Henry, Johnston, Izard, King, Lee, Morris, Read, Schuyler, and Walker.—12.

The numbers being equal, the Vice President determined the question in the negative.

Ordered, That to-morrow be assigned for the third reading of this bill.

The Senate proceeded to consider the motion made the 24th of May, to wit: That it be resolved, that Congress shall meet and hold their next session in the city of Philadelphia; and, after debate,

Ordered, That the further consideration hereof be postponed until Thursday, the 3d of June next.

The Senate then entered on Executive business, took up the President's message of yesterday, and confirmed the several nominations made therein.

THURSDAY, May 27.

The Senate proceeded to the second reading of the bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of North Carolina."

Ordered, That this bill have the third reading to-morrow.

The petition of John Frederick Amelung, of the State of Maryland, was read, stating the difficulties he labors under in establishing the glass manufacture, and soliciting the aid of the Government of the United States in this important undertaking.

Ordered, That this petition lie on the table.

The Senate proceeded to the third reading of the bill for finally adjusting and satisfying the claims of Frederick William de Steuben, which passed with an amendment, adding *five hundred*, after the words *two thousand*.

FRIDAY, May 28.

A message from the House of Representatives informed the Senate, that they disagree to the amendment proposed by the Senate to the bill providing the means of intercourse between the United States and foreign nations.

Mr. Few, from the committee appointed May 3d, on the bill supplemental to an act for establishing the salaries of the Executive Officers of Government, with their assistants and clerks, reported: whereupon,

The Senate proceeded to the reading of the bill.

Resolved, That this bill do pass.

The Senate proceeded to the third reading

SENATE.]

Proceedings.

[JUNE 2, 1790.

of the bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of North Carolina."

Resolved, That this bill do pass.

✓ The motion made the 24th of May, to wit: That Congress shall meet and hold their next session in the city of Philadelphia, was withdrawn.

The Senate proceeded to consider the message from the House of Representatives of this day, with the amendment of the Senate disagreed to on the bill providing the means of intercourse between the United States and foreign nations: whereupon,

Resolved, That the Senate do insist on their amendment to the said bill.

Ordered, That the Secretary acquaint the House of Representatives herewith.

MONDAY, May 31.

A message from the House of Representatives informed the Senate, that they have agreed to the amendments of the Senate to the bill for finally adjusting and satisfying the claims of Frederick William de Steuben; and that they do insist on their disagreement to the amendment of the Senate on the bill providing the means of intercourse between the United States and foreign nations.

The Senate proceeded to the consideration of the message from the House of Representatives on the bill for providing the means of intercourse between the United States and foreign nations, and their amendment disagreed to by the House of Representatives: whereupon,

Resolved, That the Senate do still insist on their amendment, and request a conference with such committee as may be appointed by the House of Representatives, on the subject-matter of disagreement; and that Messrs. KING, IZARD, and READ be managers of the conference on the part of the Senate.

Ordered, That the Secretary acquaint the House of Representatives herewith, and request their concurrence in the appointment of a committee on their part.

✓ Mr. BUTLER having moved for leave to bring in a bill to determine "the permanent seat of Congress and the Government of the United States," leave was accordingly given; and, the bill being presented,

Ordered, That this bill have the first reading at this time.

Ordered, That this bill have the second reading to-morrow.

TUESDAY, JUNE 1.

✓ The Senate proceeded to the second reading of the bill to determine "the permanent seat of Congress and the Government of the United States;" and, after debate,

Ordered, That the further consideration hereof be postponed till to-morrow.

The following message was received from

the President of the United States, and was read:

*Gentlemen of the Senate,
and House of Representatives:*

Having received official information of the accession of the State of Rhode Island and Providence Plantations to the constitution of the United States, I take the earliest opportunity of communicating the same to you, with my congratulations on this happy event, which unites, under the General Government, all the States which were originally confederated; and have directed my Secretary to lay before you a copy of the letter from the President of the Convention of the State of Rhode Island to the President of the United States.

G. WASHINGTON.

United States, June 1, 1790.

The Senate then entered on Executive business.

The following message from the President of the United States, by his Secretary, was read:

UNITED STATES, May 31, 1790.

Gentlemen of the Senate:

Mr. De Poiery served in the American army for several of the last years of the late war, as Secretary to Major General the Marquis de Lafayette, and might probably at the same time have obtained the commission of Captain from Congress, upon application to that body. At present, he is an officer in the French National Guards, and solicits a Brevet Commission from the United States of America. I am authorized to add, that while the compliance will involve no expense on our part, it will be particularly grateful to that friend of America, the Marquis de Lafayette.

I therefore nominate M. De Poiery to be a Captain by Brevet.

GEORGE WASHINGTON.

Ordered, That the message lie for consideration.

A message from the House of Representatives, informed the Senate that they have agreed to the conference proposed by the Senate, on the bill providing the means of intercourse between the United States and foreign nations; and have appointed Messrs. GERRY, WHITE, and WILLIAMSON, managers thereof on their part.

It also communicated the following resolve of the House of Representatives:

Resolved, That Congress shall meet and hold their next session at the city of Philadelphia.

Ordered, That the consideration of the last cited resolve be postponed until to-morrow.

WEDNESDAY, June 2.

A message from the House of Representatives communicated to the Senate the following resolve of the House:

Resolved, That all treaties made, or which shall be made or promulgated under the authority of the United States, from time to time, be published and annexed to their code of laws, by the Secretary of State.

The Senate proceeded to the second reading

JUNE 7, 1790.]

Proceedings.

[SENATE.]

of the bill, to determine "the permanent seat of Congress, and the Government of the United States."

Ordered, That this bill be committed to Messrs. BUTLER, JOHNSTON, HENRY, LEE, and DALTON.

On motion,

Ordered, That the resolve of the House of Representatives of the 31st of May, to wit: "That Congress shall meet and hold their next session at the city of Philadelphia," be referred to the same committee.

The Senate proceeded to consider the resolve of the House of Representatives of June the first, providing that "all treaties made, or which shall be made and promulgated under the authority of the United States, shall, from time to time, be published and annexed to their code of laws, by the Secretary of State;" and,

Resolved, That the Senate concur in this resolution.

Ordered, That the Secretary acquaint the House of Representatives with the concurrence.

A message from the House of Representatives informed the Senate that they have passed a bill making provision for the debt of the United States; in which they request the concurrence of the Senate.

Ordered, That the bill making provision for the debt of the United States have the first reading at this time.

Ordered, That this bill pass to the second reading.

Resolved, That the Senate will attend the funeral of Colonel BLAND, late a member of the House of Representatives of the United States, at five o'clock this afternoon.

The Senate then entered on Executive business, and consented to the nomination of M. De Poiery to be a Captain by Brevet, in the service of the United States.

The following message from the President of the United States, by his Secretary, was read:

UNITED STATES, June 2, 1790.

Gentlemen of the Senate:

The troops at present in service, consisting of one regiment of infantry and one battalion of artillery, were apportioned, by the acts of the former Congress, on the States of Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania; and as the officers of said troops are in actual service, I nominate them, as in the list hereunto annexed, according to their ranks respectively, for appointments under the act for regulating the military establishment of the United States, passed the 30th of April, 1790; and as the said act requires an additional number of officers for one battalion of infantry, I nominate, under the head of "New Appointments," in the annexed list, the officers for the same, from Maryland, Virginia, North Carolina, and Georgia; it being proposed to raise the said battalion in those States.

GEO. WASHINGTON.

[Then followed the lists of officers referred to in the President's message.]

The message was ordered to lie for consideration till to-morrow.

THURSDAY, June 3.

The Senate proceeded to the second reading of the bill making provision for the debt of the United States.

Ordered, That the further consideration hereof be postponed until Monday next.

The Senate then entered on Executive business, and took up for consideration the nominations of officers made in the President's message of yesterday, which were all confirmed.

FRIDAY, June 4.

A message from the House of Representatives informed the House, that they have passed a bill for giving effect to the several acts therein mentioned, in respect to the State of Rhode Island and Providence Plantations; in which they desire the concurrence of the Senate.

The Senate proceeded to the first reading of the bill for giving effect to the several acts therein mentioned, in respect to the State of Rhode Island and Providence Plantations.

Ordered, That this bill pass to the second reading.

On motion to appoint an additional member to the committee on the bill to determine "the permanent seat of Government of the United States."

It passed in the negative.

The Senate then entered on Executive business.

A message was read from the President of the United States, nominating Consuls and Vice-Consuls at the following foreign ports, viz: Cadiz, Bilbao, Madeira, Liverpool, Cowes, Dublin, Marseilles, Bordeaux, Nantz, Havre, Rouen, Hispaniola, Martinique, and Hamburg.

The message was ordered to lie for consideration.

MONDAY, June 7.

The Senate proceeded to the second reading of the bill for giving effect to the several acts therein mentioned, in respect to the State of Rhode Island and Providence Plantations.

Ordered, That this bill pass to the third reading.

Mr. BUTLER reported, from the committee appointed June the 2d, on the bill to determine "the permanent seat of Congress and the Government of the United States."

Ordered, That the report be postponed until to-morrow for consideration.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill, making provision for the debt of the United States; and, after progress, proceeded on Executive business, and confirmed all the nominations of Consuls and Vice Consuls made by the President in his message of yesterday.

After which the following message from the President was read:

SENATE.]

Proceedings.

[JUNE 8, 1790.]

UNITED STATES, JUNE 7, 1790.

Gentlemen of the Senate:

In pursuance of the law lately passed for giving effect to an act entitled "An act to establish the Judicial Courts of the United States," within the State of North Carolina, I nominate the following persons to fill the Judicial offices in that district, viz:

William R. Davie, to be Judge;
John Sitgreaves, to be Attorney; and
John Skinner, to be Marshal of the district of North Carolina.

I likewise nominate the following persons to fill offices established by law within the territory of the United States south of the river Ohio, viz:

William Blount, to be Governor;
David Campbell and John McNairy, to be Judges;
and

Daniel Smith, to be Secretary of the Territory of the United States south of the river Ohio.

GEO. WASHINGTON.

Ordered, That the message lie on the table.

TUESDAY, JUNE 8.

Mr. LEE, from the joint committee appointed the 30th of May, "to consider and report whether any, and what, further regulations are necessary for conducting the business between the two Houses," reported.

Ordered, That the report lie for consideration.

A message from the House of Representatives informed the Senate that they have passed a bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of Rhode Island and Providence Plantations;" in which they request the concurrence of the Senate.

It also communicated the following resolve of the House of Representatives; in which the concurrence of the Senate was desired.

Resolved, That a committee be appointed, to join with a committee of the Senate, to be appointed for the purpose to consider of, and report, when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business now before Congress necessary to be finished before the adjournment, and such as may be conveniently postponed; and, also, to consider and report such matters not now before Congress, but which it will be necessary should be considered and determined by Congress before adjournment.

And a committee was appointed of Messrs. WADSWORTH, CARROLL, and HARTLEY.

The last recited resolve of the House of Representatives was read.

On motion that the consideration of the bill to determine the permanent seat of Congress, and the Government of the United States, be postponed, in order to take up the resolution from the House of Representatives, for declaring the place where the next session of Congress shall be held;

A motion was made to postpone this motion until to-morrow; and,

It passed in the negative.

Whereupon, the Senate proceeded to the consideration of the resolve of the House of Representatives, to wit: "That Congress shall meet, and hold their next session, at the city of Philadelphia."

And, on motion to concur therein, the yeas and nays being required by one-fifth of the Senators present, were:

YEAS.—Messrs. Bassett, Carroll, Elmer, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—11.

NAYS.—Messrs. Butler, Dalton, Ellsworth, Few, Gunn, Hawkins, Johnson, Johnston, Izard, King, Paterson, Schuyler, and Strong.—13.

So it was

Resolved, That the Senate do not concur in the resolution proposed by the House of Representatives.

The Senate then resumed the consideration of the report of the committee on the bill to determine "the permanent seat of Congress, and the Government of the United States," which is as follows:

1st. That, in their opinion, taking a combination of circumstances into consideration, the present session is a proper time for fixing on the permanent residence of Congress and the Government of the United States; and, after due consideration, recommend that it be placed on the eastern or northeastern bank of the Potomac.

Your committee further recommend, that such sums of money as may be offered by the States, for the carrying this bill into effect, may be accepted of; then the bill will read thus: "And to accept of grants of money or lands." Your committee were of opinion, that Congress can best determine the time to be allowed for completing the buildings.

With respect to the temporary residence of Congress, your committee, after weighing all circumstances, consider the ground of choice to be so narrowed as to be fully in the view of the Senate.

Your committee recommend, that the Senate should agree with all the other parts of the bill.

Whereupon, a motion was made, that the opinion of the Senate be taken, whether it be expedient, at this time, to determine upon any place for the permanent seat of the Government of the United States.

The yeas and nays being required by one-fifth of the Senators present, were:

YEAS.—Messrs. Butler, Dalton, Few, Gunn, Hawkins, Johnson, Johnston, Izard, King, Paterson, Schuyler, and Strong.—12.

NAYS.—Messrs. Bassett, Carroll, Ellsworth, Elmer, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—12.

The number of votes being equal, the question was, by the Vice President, determined in the negative.

Ordered, That the consideration of the bill, to determine "the permanent seat of Congress and the Government of the United States," be resumed; the report of the committee being rejected.

On motion to fill up the blank in the first paragraph of the bill with these words, "the

JUNE 11, 1790.]

Proceedings.

[SENATE.]

easterly bank of the Potomac," the yeas and nays being required by one-fifth of the Senators present, were:

YEAS.—Messrs. Butler, Few, Gunn, Hawkins, Johnson, Johnston, Izard, King, and Schuyler.—9.

NAYS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Henry, Langdon, Lee, Maclay, Morris, Paterson, Read, Strong, Walker, and Wingate.—15.

So it passed in the negative.

On motion to postpone the further consideration of this bill for a fortnight:

It passed in the negative.

On motion to fill up the blank in the first paragraph of the bill with the word "Baltimore," the yeas and nays being required by one-fifth of the Senators present, were:

YEAS.—Messrs. Butler, Few, Gunn, Hawkins, Johnson, Johnston, and Izard.—7.

NAYS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Henry, King, Langdon, Lee, Maclay, Morris, Paterson, Read, Schuyler, Strong, Walker, and Wingate.—17.

So it passed in the negative.

On motion to postpone the bill generally:

It passed in the negative.

On motion to postpone the bill till the next session of Congress:

It passed in the negative.

On motion to reject the first enacting clause of the bill, to wit:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a district of territory not exceeding ten miles square, to be located, as hereafter directed, at ———, and the same is hereby accepted as the permanent seat of Congress and the Government of the United States."

It passed in the negative.

On motion to adjourn:

It passed in the negative.

On motion to fill up the blank in the first enacting clause of the bill with the words "Wilmington, in the State of Delaware."

It passed in the negative.

A motion was made that the first enacting clause of the bill be agreed to; which was superseded by a motion to adjourn, which was carried.

WEDNESDAY, JUNE 9.

Ordered, That the bill, entitled "An act for giving effect to the several acts therein mentioned in respect to the State of Rhode Island and Providence Plantations," have the third reading at this time.

Resolved, That this bill do pass, with an amendment.

A message from the House of Representatives informed the Senate, that they agree to the amendment of the Senate to the bill for giving effect to the several acts therein mentioned in respect to the State of Rhode Island and Providence Plantations.

The Senate proceeded in the second reading of the bill making provision for the debt of the United States; and, after progress, adjourned.

THURSDAY, JUNE 10.

The bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of Rhode Island and Providence Plantations," was read the first time.

Ordered, That this bill pass to the second reading.

Mr. LEE, from the committee appointed to confer with a committee of the House of Representatives, to consider and report whether any, and what further regulations are necessary for conducting the business between the two Houses, reported: whereupon,

Resolved, That the Senate agree to the report, amended to read as follows:

1st. That, when a bill or resolution shall have passed in one House, shall be rejected in the other, notice thereof shall be given to the House in which the same shall have passed.

2d. When a bill or resolution which has been passed in one House shall be rejected in the other, it shall not be brought in during the same session, without a notice of ten days, and leave of two-thirds of that House in which it shall be renewed.

3d. Each House shall transmit to the other all papers on which any bill or resolution shall be founded.

4th. After each House shall have adhered to their disagreement, a bill or resolution shall be lost.

Ordered, That the Secretary acquaint the House of Representatives that the Senate agree to the report of the joint committee, thus amended.

✓The consideration of the resolve of the House of Representatives of the 8th of June, appointing a committee to join a committee that may be appointed on the part of the Senate, "to consider and report when it will be convenient and proper that an adjournment of the present session of Congress should take place," was further postponed.

The Senate proceeded in the second reading of the bill, "making provision for the debt of the United States," and after progress, adjourned.

FRIDAY, JUNE 11.

The following message was received from the President of the United States:

*Gentlemen of the Senate,
and House of Representatives.*

I have directed my Secretary to lay before you a copy of the ratification of the amendments to the Constitution of the United States by the State of North Carolina; together with an extract from a letter accompanying said ratification, from the Governor of the State of North Carolina to the President of the United States.

GEO. WASHINGTON.

Ordered, That the message and papers from the President of the United States be filed.

SENATE.]

Proceedings.

[JUNE 17, 1796.]

The Senate proceeded in the second reading of the bill making provision for the debt of the United States.

Ordered, That it be committed to Messrs. LEE, ELLSWORTH, MACLAY, KING, and PATTERSON.

The Senate proceeded in the second reading of the bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of Rhode Island and Providence Plantations."

Ordered, That this bill pass to the third reading.

Mr. ELLSWORTH notified the Senate, that, on Monday next, he should bring in a bill making "provision for the debts of the respective States, by the United States."

The Senate then entered on Executive business; when the President's nomination of THOMAS BEE to be Judge of the South Carolina district, in the place of WILLIAM DRAYTON, was read, and ordered to lie for consideration.

MONDAY, JUNE 14.

The President informed Congress, by messages, that the Legislatures of Maryland and New Hampshire had ratified all the articles proposing amendments to the Constitution, except the second.

The following written message from the House of Representatives was communicated by Mr. BECKLEY, their Clerk:

In the House of Representatives of the United States,
FRIDAY, the 11th of June, 1796.

"Resolved, That when the two Houses shall adjourn to close the present session, the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses to meet and hold their next session at the town of Baltimore."

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill, for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States."

Resolved, That this bill do pass with the following amendment:

In the last paragraph, strike out the words "one thousand dollars," and insert "eight hundred dollars."

Ordered, That the Secretary acquaint the House of Representatives herewith, and desire their concurrence in the amendment.

Mr. ELLSWORTH, instead of the bill proposed on the 11th, submitted the following motion, that it be

Resolved, That provision shall be made the next session of Congress for loaning to the United States a sum not exceeding twenty-two millions of dollars, in the certificates issued by the respective States for services or supplies towards the prosecution of the late war. The certificates which shall be loaned to stand charged to the respective States by whom they were issued, until a liquidation of their accounts with the United States can be completed.

Ordered, That this motion lie on the table.

A motion was then made, that to-morrow be assigned to take it into consideration; and, it passed in the negative.

The Resolve of the House of Representatives of June the 11th, "that when the two Houses shall adjourn to close the present session, the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses to meet and hold their next session at the town of Baltimore," being read:

On motion that the consideration thereof should be postponed to this day fortnight, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Gunn, Hawkins, Johnson, Johnston, Izard, King, Paterson, Schuyler, and Strong.—13.

NAYS.—Messrs. Bassett, Carroll, Elmer, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—11.

The Senate then entered on Executive business, and the nomination of Judge BEE, made yesterday, was confirmed. After which the President's nomination of Collectors, Naval Officers, and Surveyors of the ports of Newport and Providence, were considered and confirmed.

TUESDAY, JUNE 15.

A message from the House of Representatives informed the Senate, that they have agreed to the amendment of the Senate, to the bill for giving effect to an act, entitled "An act to establish the Judicial Courts of the United States within the State of Rhode Island and Providence Plantations."

Mr. LEE, on behalf of the Committee appointed June the 11th, on the bill, making provision for the debt of the United States, reported; and the consideration of the report was postponed until to-morrow.

WEDNESDAY, JUNE 16.

The Senate proceeded to the consideration of the report of the Committee on the bill, making provision for the debt of the United States; and after debate, postponed the further consideration thereof till to-morrow.

The following message from the President of the United States was communicated by Mr. Lear, his Secretary.

Gentlemen of the Senate,
and *House of Representatives:*

The ratification of the Constitution of the United States of America by the State of Rhode Island and Providence Plantations, was received by me last night; together with a letter to the President of the United States from the President of the Convention. I have directed my Secretary to lay before you a copy of each.

GEO. WASHINGTON.

[A copy of this letter, which contains the Ratification of the Constitution, and proposed amendments to it, will be found in the appendix to this volume.]

JUNE 23, 1790.]

Proceedings.

[SENATE.]

THURSDAY, JUNE 17.

A message from the House of Representatives informed the Senate that they have passed a bill to authorize the purchase of a tract of land for the use of the United States, to which the concurrence of the Senate is desired.

Ordered, That this bill have the first reading at this time.

Ordered, That this bill pass to the second reading.

The Senate resumed the consideration of the report of the committee on the bill making provision for the debt of the United States; and, after debate, postponed the further consideration thereof until to-morrow.

FRIDAY, JUNE 18.

The petition of Stephen Moore was read, stating, "That the United States occupy a tract of land, on which are erected the fortifications and arsenal at West Point," the property of the petitioner, and requesting compensation; together with sundry papers accompanying the petition.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill entitled "An act to authorize the purchase of a tract of land for the use of the United States."

Ordered, That this bill, together with the petition of Stephen Moore, and the papers communicated with his petition, be committed to Messrs. IZARD, GUNN, and LANGDON.

The Senate resumed the consideration of the report of the committee appointed the 11th of June, on the bill making provision for the debt of the United States; and, after debate, the consideration thereof was further postponed.

MONDAY, JUNE 21.

The Senate proceeded to the consideration of the resolve of the House of Representatives of June the 8th, proposing a joint committee for the purposes therein mentioned; and,

Resolved, That they do agree to the appointment of a committee, and that Messrs. STRONG, BASSETT, and WALKER, be the committee on the part of the Senate.

A message from the House of Representatives informed the Senate, that they have passed a bill to establish the Post-office and post roads within the United States, in which the concurrence of the Senate is desired.

The Senate resumed the consideration of the report of the committee on the bill making provision for the debt of the United States; and, on motion to agree to the following paragraph of the report, to wit,

In the fourth section, 2d line, strike out from the word "entitled," to the word "or," at the end of the next paragraph inclusive; also, strike out from the word "sum," in the 5th line of the next paragraph, to the proviso at the end of the section; and then the bill will read, "That, for any sum which shall be subscribed to the said loan by any person

or persons, or body politic, the subscriber, or subscribers, shall be entitled to a certificate, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, the whole of the sum by him, her, or them, subscribed; bearing an interest of four per cent. per annum, payable quarter yearly, and subject to redemption by payments not exceeding, in one year, on account both of principal and interest, the proportion of six dollars upon a hundred of the same sum: *Provided, always*, That it shall not be understood that the United States shall be bound or obliged to redeem in the proportion aforesaid, but it shall be understood, only, that they have a right so to do."

The design of this amendment of your committee is to discharge the alternatives proposed in the bill, and to fund the domestic debt of the United States at an interest of four per cent. per annum.

To this clause the yeas and nays were required by one fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Few, Hawkins, Henry, Johnston, Lee, MacLay, Read, Strong, and Wingate.—13.

NAYS.—Messrs. Butler, Gunn, Johnson, Izard, King, Langdon, Morris, Paterson, Schuyler, and Walker.—10.

So it passed in the affirmative.

Ordered, That the further consideration of the report be postponed.

TUESDAY, JUNE 22.

The Senate proceeded to the first reading of the bill to establish the Post-office and post roads within the United States.

Ordered, That this bill pass to the second reading.

The Senate resumed the consideration of the report of the committee on the bill making provision for the debt of the United States; which, being amended, was accepted as an amendment to the bill.

Ordered, That this bill pass to the third reading.

WEDNESDAY, JUNE 23.

The petition of Sarah, widow of the late Earl of Stirling, was read, stating "that her late husband was a major-general in the late war, and that he died in the service of the United States, on the 14th day of January, 1783; that, by the act of Congress of the 24th of August, 1780, your petitioner is entitled to seven years' half-pay of her late husband, but that she has never received any part thereof; she therefore prays that Congress may take such measures in the premises as, in their wisdom, shall appear proper, to secure to her the benefit intended by the act above mentioned."

Ordered, That this petition lie on the table.

A message from the House of Representatives informed the Senate that they have passed a bill to provide more effectually for the settlement of the accounts between the United States

SENATE.]

Proceedings.

[JUNE 25, 1970.]

and the individual States, in which they request the concurrence of the Senate.

Ordered, That the bill to provide more effectually for the settlement of the accounts between the United States and the individual States have the first reading at this time.

Ordered, That this bill pass to the second reading.

The order of the day being the third reading of the bill making provision for the debt of the United States,

On motion, the third reading was postponed.

Mr. KING reported, from the managers appointed May the 31st, to confer with those appointed by the House of Representatives on the disagreeing votes of the two Houses on the subject matter of amendments to the bill providing the means of intercourse between the United States and foreign nations,

That the word "thirty," line 3d of the bill, be struck out, and the word "forty" inserted; that the Senate do recede from their amendment to the bill, and that all the words proposed to be struck out of the bill by the Senate, except the three last words, be expunged, and the following words be inserted in their stead: "That, exclusive of an outfit, which shall in no case exceed the amount of one year's full salary to the person to whom the same may be allowed, the President of the United States shall not allow to any Minister Plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and other expenses; nor a greater sum for the same than four thousand five hundred dollars per annum to a chargé des affaires; nor a greater sum for the same than one thousand three hundred and fifty dollars per annum to any of their secretaries."

And the report was agreed to.

The Senate proceeded to the second reading of the bill to establish the Post-office and post roads within the United States.

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate, that they have passed a bill to regulate trade and intercourse with the Indian tribes, in which they desire the concurrence of the Senate.

Ordered, That the bill to regulate trade and intercourse with the Indian tribes be now read the first time.

Ordered, That this bill pass to the second reading.

THURSDAY, JUNE 24.

The Senate proceeded in the second reading of the bill entitled "An act to establish the Post-office and post roads within the United States."

Ordered, That it be committed to Messrs. JOHNSTON, LANGDON, CARROLL, STRONG, and MACLAY.

A message from the House of Representatives informed the Senate that they have passed a bill imposing duties on the tonnage of ships or ves-

sels, in which they request the concurrence of the Senate.

The Senate proceeded to the first reading of the bill imposing duties on the tonnage of ships or vessels.

Ordered, That this bill pass to the second reading.

FRIDAY, JUNE 25.

Ordered, That the second reading of the bill imposing duties on the tonnage of ships or vessels, and the second reading of the bill to regulate trade and intercourse with the Indian tribes, be postponed until Monday next.

Mr. IZARD, from the committee appointed the 18th of June, to take into consideration the bill to authorize the purchase of a tract of land for the use of the United States, reported the bill without amendment. Whereupon,

The Senate proceeded in the second reading of the bill; and, on motion, to adopt the following clause thereof, to wit:

"That it shall be lawful for the President of the United States, and he is hereby authorized, to cause to be purchased for the use of the United States, the whole, or such part of that tract of land situate in the State of New York, commonly called West Point, as shall be by him judged requisite for the purpose of such fortifications and garrisons as may be necessary for the defence of the same."

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Few, Gunn, Henry, Johnson, Johnston, Izard, King, Lee, Paterson, Schuyler, and Walker.—14.

NAYS.—Messrs. Bassett, Elmer, Langdon, MacLay, Morris, Strong, and Wingate.—7.

So it passed in the affirmative.

Ordered, That this bill pass to the third reading.

Ordered, That the second reading of the bill entitled "An act to provide more effectually for the settlement of the accounts between the United States and the individual States," be postponed until Monday next.

JOSEPH STANTON, JUN. and THEODORE FOSTER, from the State of Rhode Island and Providence Plantations, appeared, produced their credentials, and took their seats in the Senate; and the oaths required by law were administered to them.

On motion to resume the second reading of the bill "to determine the permanent seat of Congress and the Government of the United States,"

A motion was made to postpone the consideration thereof until Monday next; and

It passed in the affirmative.

A message from the House of Representatives informed the Senate, that they have agreed to the amendments of the Senate to the bill providing the means of intercourse between the United States and foreign nations, with amendments, to which they desire the concurrence of the Senate.

JUNE 28, 1790.]

Proceedings.

[SENATE.]

The Senate took into consideration the message from the House of Representatives, and their resolution communicated this day, which is as follows:

Resolved, That this House do agree to the amendments proposed by the Senate to the bill providing the means of intercourse between the United States and foreign nations, with the following amendments, to wit:

Line 9th, strike out the word "person," and, in lieu thereof, insert "the Minister Plenipotentiary, or Chargé des Affaires."

Line 19th, strike out "any of their secretaries," and, in lieu thereof, insert "the Secretary of any Minister Plenipotentiary;" whereupon,

Resolved, That the Senate do agree to the amendments of the House of Representatives to their amendments to the said bill.

A letter was read from the Treasurer of the United States, inclosing a statement of his accounts to the 31st of March, 1790.

Ordered, That these accounts be committed to Messrs. BUTLER, MORRIS, and WINGATE.

On motion, the Senators from the State of Rhode Island and Providence Plantations proceeded to draw lots for their classes, in conformity to the resolve of the 14th of May, 1789; and three lots, Nos. 1, 2, and 3, being by the Secretary rolled up and put into the box, Mr. STANTON drew lot No. 2, whose seat shall accordingly be vacated in the Senate at the expiration of the fourth year; and Mr. FOSTER drew lot No. 1, whose seat shall accordingly be vacated in the Senate at the expiration of the second year.

MONDAY, JUNE 28.

Mr. STRONG reported, from the joint committee appointed June the 21st, to consider of, and report when, it will be convenient and proper that an adjournment of the present session of Congress should take place.

Ordered, That the report lie for consideration. Agreeably to the order of the day, the Senate proceeded to the third reading of the bill to authorize the purchase of a tract of land for the use of the United States.

And on the question shall this bill pass? The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Few, Foster, Hawkins, Henry, Johnson, Johnston, Izard, King, Lee, Paterson, Schuyler, and Walker.—15.

NAYS.—Messrs. Bassett, Ellsworth, Elmer, Langdon, Maclay, Morris, Read, Stanton, Strong, and Wingate.—10.

So it was

Resolved, That this bill do pass.

A message from the House of Representatives informed the Senate, that they have passed a bill for the government and regulation of seamen in the merchant service, to which they request the concurrence of the Senate.

Ordered, That the last bill have the first reading at this time.

Ordered, That this bill pass to the second reading.

The Senate proceeded to the consideration of the resolve of the House of Representatives of the 11th of June, "That, when the two Houses shall adjourn to close the present session, the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses to meet and hold their next session at the town of Baltimore; and

On motion to postpone the consideration thereof, to take up the "bill to determine the permanent seat of Congress and the Government of the United States."

It passed in the affirmative.

Agreeably to the order of the day, the Senate resumed the second reading of the bill last mentioned.

On motion,

Ordered, That the consideration of the bill be postponed, and that the representation of John O'Donnell, in behalf of himself and others, citizens of Baltimore town, stating that town to be exceedingly commodious and eligible for the permanent seat of Government of the United States; and the representation of Robert Peters, in behalf of himself and other freeholders and other inhabitants of Georgetown, for the same purpose, be severally read.

The consideration of the bill was resumed, and the first enacting clause being read as follows:

"Be it enacted by the Senate and House of Representatives, of the United States of America in Congress assembled, that a district of Territory not exceeding ten miles square, to be located as hereafter directed, at ———, and the same is hereby accepted as the permanent seat of Congress and the Government of the United States."

A motion was made to fill up the blank with the word "Baltimore," and the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Schuyler, and Stanton.—10.

NAYS.—Messrs. Bassett, Carroll, Dalton, Elmer, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Paterson, Read, Strong, Walker, and Wingate.—15.

So it passed in the negative.

On motion, after the word "directed," in the fifth line of the bill, to strike out to the end of the clause, and insert,

"On the river Potomac, at some place between the mouths of the Eastern Branch and Connogogue, be, and the same is hereby accepted for the permanent seat of the Government of the United States: *Provided*, nevertheless, that the operation of the laws of the State within such district shall not be affected by this acceptance, until the time fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide."

The yeas and nays were required by one-fifth of the members present, and were:

YEAS.—Messrs. Bassett, Butler, Carroll, Elmer,

SENATE.]

Proceedings.

[JUNE 29, 1790.]

Few, Foster, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Maclay, Morris, Read, and Walker.—16.

YAYS.—Messrs. Dalton, Ellsworth, Johnson, King, Paterson, Schuyler, Stanton, Strong, and Wingate.—9.

So it passed in the affirmative.

On motion, that the bill be amended as follows: after the word "authorized," in the second clause, strike out to the end of the said clause, and insert,

"To appoint, and, by supplying vacancies happening from refusals to act, or other causes, to keep in appointment, as long as may be necessary, three commissioners, who, or any two of whom, shall, under the direction of the President, survey, and by proper metes and bounds, define and limit, a district or territory, under the limits above mentioned; and the district, so defined, limited and located, shall be deemed the district accepted by this act for the permanent seat of the Government of the United States."

The motion was agreed to.

On motion to subjoin to the amendment last agreed to, as follows:

"And be it enacted, that the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States; and, according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December, in the year one thousand eight hundred, provide suitable buildings for the accommodation of Congress, and of the President, and for the public offices of the Government of the United States."

A motion made to amend the amendment, so that it should read,

"Prior to the first Monday in December, one thousand seven hundred and ninety-four."

The yeas and nays were required on this amendment to the proposed amendment by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Few, Foster, Johnson, Johnston, Izard, King, Schuyler, and Stanton.—9.

NAYS.—Messrs. Basset, Carroll, Dalton, Ellsworth, Elmer, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Strong, Walker, and Wingate.—16.

So it passed in the negative.

A motion was then made to amend the proposed amendment, so that it should read,

"Prior to the first Monday in December, one thousand seven hundred and ninety-eight."

And it passed in the negative.

And, on motion to agree to the proposed amendment to the bill, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Few, Johnson, Johnston, Izard, King, Schuyler, and Stanton.—8.

NAYS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Foster, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Paterson, Read, Strong, Walker, and Wingate.—17.

So it passed in the negative.

On motion to strike out the third, fourth, and fifth enacting clauses in the bill, and insert the following:

"And be it enacted, that for defraying the expense of such purchases and buildings, the President of the United States be authorized and requested to accept grants of money, and cause to be borrowed a sum not exceeding one hundred thousand dollars, at an interest not exceeding six per cent; for payment of which, and repayment of the principal within twenty years, so much of the duties on imposts and tonnage as may be sufficient, is hereby pledged and appropriated."

The yeas and nays were required by one-fifth of the Senators present, and were

YEAS.—Messrs. Bassett, Butler, Carroll, Few, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Maclay, Morris, Read, Stanton, and Walker.—15.

NAYS.—Messrs. Dalton, Ellsworth, Elmer, Foster, Johnson, King, Paterson, Schuyler, Strong, and Wingate.—10.

So it passed in the affirmative.

On motion to subjoin the following to the clause last agreed to:

"And be it enacted, that on the said first Monday in December, in the year one thousand eight hundred, the seat of the Government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid; and all officers attached to the said seat of Government shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and the necessary expense of such removal shall be defrayed out of the duties on imposts and tonnage, of which a sufficient sum is hereby appropriated."

The yeas and nays were required by one-fifth of the Senators present, and were

YEAS.—Messrs. Bassett, Butler, Carroll, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Maclay, Morris, Read, and Walker.—13.

NAYS.—Messrs. Dalton, Ellsworth, Elmer, Few, Foster, Johnson, King, Paterson, Schuyler, Stanton, Strong, and Wingate.—12.

So it passed in the affirmative.

On motion to fill up the first blank in the last paragraph of the bill, to wit:

"And be it further enacted by the authority aforesaid, that the temporary residence of Congress shall be and continue in the _____ till the year _____ and no longer," with these words, "city of New York."

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—13.

NAYS.—Messrs. Bassett, Carroll, Elmer, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Reed, Walker, and Wingate.—12.

So it passed in the affirmative.

TUESDAY, June 29.

A message from the House of Representatives informed the Senate, that they have passed a

JUNE 29, 1790.]

Proceedings.

[SENATE.]

bill for giving effect to an act, entitled "An act providing for the enumeration of the inhabitants of the United States," in respect to the State of Rhode Island and Providence Plantations.

Ordered, That the bill for giving effect to an act, entitled "An act providing for the enumeration of the inhabitants of the United States," in respect to the State of Rhode Island and Providence Plantations, be now read the first time.

Ordered, That this bill pass to the second reading.

The Senate proceeded in the second reading of the bill imposing duties on the tonnage of ships or vessels.

Ordered, That this bill be committed to Messrs. REED, DALTON, and MORRIS.

The Senate resumed the consideration of the bill to determine the permanent seat of Congress, and the Government of the United States.

On motion to fill up the blank in the last paragraph of the bill, with the words, "one thousand eight hundred;" the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Carroll, Ellsworth, Foster, Johnson, Johnston, Izard, King, Langdon, Lee, Paterson, Schuyler, and Stanton.—13.

NAYS.—Messrs. Butler, Dalton, Elmer, Few, Gunn, Henry, Maclay, Morris, Reed, Strong, Walker, and Wingate.—12.

So it passed in the affirmative.

On motion to agree to the last clause of the bill, amended to read as follows:

"Be it further enacted by the authority aforesaid, That the temporary residence of Congress, shall be and continue in the city of New York till the year one thousand eight hundred, and no longer."

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Ellsworth, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, and Stanton.—9.

NAYS.—Messrs. Bassett, Butler, Carroll, Dalton, Elmer, Few, Gunn, Henry, Langdon, Lee, Maclay, Morris, Reed, Strong, Walker, and Wingate.—16.

So it passed in the negative.

A motion was made to subjoin the following paragraph to the bill, in lieu of that last struck out, to wit:

"And be it enacted, That, prior to the first Monday in December next, all offices attached to the seat of Government of the United States, shall be removed to, and until the said first Monday in December, in the year one thousand eight hundred, shall remain at, the city of Philadelphia, in the State of Pennsylvania; at which place the two Houses do hereby resolve that the session of Congress, next ensuing the present, shall be held;" and,

A motion was made to amend the motion, as follows:

And be it enacted, That Congress shall continue to hold their sessions in the city of New York until the first Monday in December, in the year one thousand seven hundred and ninety-four; and, from and after

the said first Monday in December, one thousand seven hundred and ninety-four, Congress shall hold their sessions in the city of Philadelphia, and shall continue there to hold the same until the first Monday of December, one thousand eight hundred."

Upon this amendment to the motion, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—13.

NAYS.—Messrs. Bassett, Carroll, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—13.

The numbers being equal, the Vice President determined the question in the negative.

A motion was then made to amend the motion, as follows:

And be it enacted, That Congress shall continue to hold their sessions in the city of New York until the first Monday in December, in the year one thousand seven hundred and ninety-four; and, from and after the said first Monday in December, one thousand seven hundred and ninety-four, Congress shall hold their sessions in the town of Baltimore, and shall continue there to hold the same until the first Monday of December, one thousand eight hundred."

Upon this amendment to the motion, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Schuyler, and Stanton.—10.

NAYS.—Messrs. Bassett, Carroll, Dalton, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Paterson, Read, Strong, Walker, and Wingate.—16.

So it passed in the negative.

A motion was then made to amend the motion, as follows:

"And be it enacted by the authority aforesaid, That Congress shall continue to hold their sessions in the city of New York till the first Monday in December, one thousand seven hundred and ninety-two; and, from and after that period, to adjourn to the city of Philadelphia, where Congress shall hold their sessions till the first Monday in December, one thousand eight hundred, and no longer."

Upon this amendment to the motion, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—13.

NAYS.—Messrs. Bassett, Carroll, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—13.

The numbers being equal, the question was, by the Vice President, determined in the negative.

On the question to agree on the original motion, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Carroll, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—13.

SENATE.]

Proceedings.

[JUNE 30, 1790.]

YAYS.—Messrs. Butler, Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—13.

The numbers being equal, the question was by the Vice President determined in the negative.

On motion that this bill do pass to the third reading, the further consideration thereof was postponed, by a motion for adjournment.

WEDNESDAY, June 30.

The following message was received from the President of the United States:

*Gentlemen of the Senate,
and House of Representatives:*

An act of the Legislature of the State of Rhode Island and Providence Plantations, for ratifying certain articles as amendments to the constitution of the United States, was yesterday put into my hands; and I have directed my Secretary to lay a copy of the same before you.

GEO. WASHINGTON.

United States, June 30, 1790.

All the articles except the second were adopted:

Ordered, That the message from the President of the United States, and papers therewith communicated, lie on the files of the Senate.

The Senate resumed the second reading of the bill to determine the permanent seat of Congress, and the Government of the United States.

On motion to reconsider the last paragraph of the bill, which was yesterday struck out:

It passed in the affirmative.

On motion to amend the paragraph to read as follows:

"And be it enacted, That, prior to the first Monday in December next, all offices attached to the seat of the Government of the United States shall be removed to, and, until the said first Monday in December, in the year one thousand eight hundred, shall remain at, the city of Philadelphia, in the State of Pennsylvania; at which place the session of Congress next ensuing the present, shall be held."

A motion was made to amend the motion, to read as follows:

"And be it enacted, That Congress shall continue to hold their sessions in the city of New York until the first Monday in December, in the year one thousand seven hundred and ninety-four; and, from and after the said first Monday in December, one thousand seven hundred and ninety-four, Congress shall hold their sessions in the city of Philadelphia, and shall continue there to hold the same until the first Monday of December, one thousand eight hundred."

And, on the question thus to amend the amendment proposed to the bill:

It passed in the negative.

A motion was then made to amend the motion to read as follows:

"And be it enacted, That Congress shall continue to hold their sessions in the city of New York until the first Monday in December, one thousand seven

hundred and ninety-two; and, from and after the said first Monday of December, one thousand seven hundred and ninety-two, Congress shall hold their sessions in the city of Philadelphia, and shall continue there to hold the same until the first Monday of December, one thousand eight hundred."

And, on the question thus to amend the amendment proposed to the bill:

It passed in the negative.

On the question to agree to the original motion, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Butler, Carroll, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—14.

NAYS.—Messrs. Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—12.

So it passed in the affirmative.

On motion to reconsider the following clause of the bill, agreed to yesterday, to wit:

"And cause to be borrowed a sum not exceeding one hundred thousand dollars, at an interest not exceeding six per cent.; for payment of which, and repayment of the principal within twenty years, so much of the duties on impost and tonnage as may be sufficient is hereby pledged and appropriated:"

It passed in the affirmative.

And, on motion to expunge this whole paragraph, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Foster, Henry, Johnson, King, Langdon, Lee, Maclay, Morris, Paterson, Read, Schuyler, Strong, Walker, and Wingate.—19.

NAYS.—Messrs. Butler, Few, Gunn, Hawkins, Johnston, Izard, and Stanton.—7.

So it passed in the affirmative.

On the question, Shall this bill pass to the third reading? The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Butler, Carroll, Elmer, Few, Gunn, Hawkins, Henry, Johnston, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—16.

NAYS.—Messrs. Dalton, Ellsworth, Foster, Johnson, Izard, King, Paterson, Schuyler, Stanton, and Strong.—10.

So it passed in the affirmative.

Ordered, That this bill be engrossed.

The Senate proceeded to the second reading of the bill for giving effect to an act, entitled "An act providing for the enumeration of the inhabitants of the United States," in respect to the State of Rhode Island and Providence Plantations.

Ordered, That this bill pass to a third reading.

Mr. JOHNSTON, from the committee appointed June the 24th, to take into consideration the bill to establish the Post-office and post roads within the United States, reported amendments; which were read.

Ordered, That the report lie until to-morrow for consideration.

JULY 2, 1790.]

Proceedings.

[SENATE.]

The Senate proceeded to the second reading of the bill to provide more effectually for the settlement of the accounts between the United States and the individual States; and, after progress, the further consideration thereof was postponed until to-morrow.

THURSDAY, July 1.

The Senate proceeded to the third reading of the bill for giving effect to an act, entitled "An act providing for the enumeration of the inhabitants of the United States," in respect to the State of Rhode Island and Providence Plantations.

Resolved, That this bill do pass.

The Senate proceeded in the second reading of the bill for the government and regulation of seamen in the merchants' service.

Ordered, That this bill be committed to Messrs. DALTON, MORRIS, and LANGDON.

The Senate proceeded to the second reading of the bill to provide more effectually for the settlement of the accounts between the United States and the individual States."

Ordered, That this bill be committed to Messrs. KING, STRONG, READ, ELLSWORTH, and HAWKINS.

A message from the House of Representatives informed the Senate, that they have passed the bill further to provide for the payment of the invalid pensioners of the United States; to which they desire the concurrence of the Senate.

Agreeably to the order of the day, the Senate proceeded to the third reading of the engrossed bill to determine the permanent seat of Congress and the Government of the United States.

On motion to strike out these words, in the first enacting clause, "between the mouths of the Eastern Branch and Connogochegue," and insert "within thirty miles of Hancock Town."

It passed in the negative.

On motion to strike out these words, from the fifth enacting clause of the bill, "the first Monday of December next," and insert "the first Monday in May next;" the yeas and nays were required by one fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Ellsworth, Few, Foster, Johnson, Johnston, Izard, King, Paterson, Schuyler, Stanton, and Strong.—13.

NAYS.—Messrs. Bassett, Carroll, Elmer, Gunn, Hawkins, Henry, Langdon, Lee, Maclay, Morris, Read, Walker, and Wingate.—13.

The numbers being equal, the Vice President determined the question in the negative.

A motion was made to restore the following clause, which, it was agreed yesterday, should be struck out, to wit:

"And cause to be borrowed a sum not exceeding one hundred thousand dollars, at an interest not exceeding six per cent.; for payment of which, and repayment of the principal within twenty years, so much of the duties on impost and tonnage as may be sufficient is hereby pledged and appropriated."

And it passed in the negative.

On the question, Shall this bill pass? The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Butler, Carroll, Elmer, Gunn, Hawkins, Henry, Johnston, Langdon, Lee, Maclay, Morris, Read, and Walker.—14.

NAYS.—Messrs. Dalton, Ellsworth, Few, Foster, Johnson, Izard, King, Paterson, Schuyler, Stanton, Strong, and Wingate.—12.

So it was *Resolved*, That this bill do pass, and that the title of it be "An act for establishing the temporary and permanent seat of the Government of the United States."

Ordered, That the Secretary carry this bill to the House of Representatives, and desire their concurrence therein.

FRIDAY, July 2.

The petition of John Fitch was read, stating sundry improvements which he has made in applying steam to the purposes of propelling boats or vessels through the water," and requesting "a law in his favor, independent of the general one now in force."

The bill further to provide for the payment of the invalid pensioners of the United States, was read the first time.

Ordered, That this bill pass to the second reading.

Ordered, That the motion made June the 14th, "that provision shall be made the next session of Congress for loaning to the United States a sum not exceeding twenty-two millions of dollars," be committed to Messrs. CARROLL, LEE, STRONG, ELLSWORTH, and PATEESON.

The Senate proceeded to the second reading of the bill to regulate trade and intercourse with the Indian tribes.

Ordered, That this bill be committed to Messrs. HAWKINS, FEW, and SCHUYLER.

The Senate proceeded in the consideration of the report of the committee on the bill to establish the Post-office and post roads within the United States; and, after progress, the Senate adjourned.

The Senate entered on Executive business. The following message from the President of the United States was read:

UNITED STATES, July 2d, 1790.

Gentlemen of the Senate:

I nominate Henry Merchant, to be Judge; William Channing, to be Attorney; and William Peck, to be Marshal of the Judicial Court of the United States within the district of Rhode Island and Providence Plantations.

I likewise nominate the following persons to fill offices in the Revenue Department of the United States, within the State of Rhode Island and Providence Plantations, viz.

Ebenezer Thompson, to be Naval Officer of the port of Providence, in the place of Theodore Foster, who is appointed a Senator of the United States. Daniel Eldridge Updike, to be Surveyor of the port of North Kingstown. Job Constock, to be Surveyor of the port of East Greenwich. Nathaniel Phillips, to be Surveyor of the ports of Warren and Barrington.

SENATE.]

Proceedings.

[JULY 9, 1790.]

ton. Samuel Bozworth, to be Surveyor of the port of Bristol. George Stillman, to be Surveyor of the port of the Pawcatuck river. John Anthony Aborn, to be Surveyor of the port of Patuxet.

GEO. WASHINGTON.

Ordered, That the message lie for consideration.

SATURDAY, July 3.

The Senate proceeded to the consideration of the report of the committee appointed June the 24th, on the bill to establish the Post-office and post roads within the United States, and it was agreed to amend the bill accordingly.

Ordered, That this bill pass to the third reading.

Mr. KING, from the committee appointed July 1st, on the bill to provide more effectually for the settlement of the accounts between the United States and the individual States, reported amendments.

Ordered, That the consideration of the report be postponed.

The Senate then entered on Executive business, and confirmed all the nominations to office in Rhode Island, except that of Daniel Eldridge Updike, postponed for want of information.

MONDAY, July 5.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill to establish the Post-office and post roads within the United States.

On motion to restore the first and second paragraphs, ordered to be expunged:

It passed in the negative.

Ordered, That the further consideration of this bill be postponed.

TUESDAY, July 6.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill to establish the Post-office and post roads within the United States.

Resolved, That this bill do pass with amendments.

The Senate proceeded to consider the report of the committee on the bill to provide more effectually for the settlement of the accounts between the United States and the individual States, and agreed to amend the bill accordingly.

Ordered, That this bill pass to the third reading.

The Senate proceeded to the second reading of the bill further to provide for the payment of the invalid pensioners of the United States.

Ordered, That this bill pass to the third reading.

WEDNESDAY, July 7.

The Senate proceeded to the third reading of the bill further to provide for the payment of the invalid pensioners of the United States.

Resolved, That this bill do pass with an amendment.

The Senate proceeded to the third reading of the bill to provide more effectually for the settlement of the accounts between the United States and the individual States.

Ordered, That this bill be committed to Messrs. MORRIS, SCHUYLER, KING, LEE, and ELLSWORTH.

Mr. DALTON, from the committee appointed on the bill for the government and regulation of seamen in the merchants' service, reported; which, being read, it was agreed that the bill should be amended accordingly.

Ordered, That this bill pass to the third reading.

Mr. SCHUYLER, from the committee appointed May the 4th, on the bill to authorize the issuing of certificates to a certain description of invalid officers, reported: whereupon,

Ordered, That this bill pass to the third reading.

The Senate proceeded to the third reading of the bill last mentioned; and,

Resolved, That they do not concur therein.

THURSDAY, July 8.

The Senate proceeded to the third reading of the bill for the government and regulation of seamen in the merchants' service.

Resolved, That this bill do pass with amendments.

Mr. MORRIS reported, from the committee appointed July the 7th, on the bill to provide more effectually for the settlement of the accounts between the United States and the individual States; and it was agreed to amend the bill accordingly.

Ordered, That this bill pass to the third reading.

Mr. HAWKINS reported, from the committee appointed July the 2d, on the bill to regulate trade and intercourse with the Indian tribes; and it was agreed to amend the bill accordingly.

Ordered, That this bill pass to the third reading.

FRIDAY, July 9.

The Senate proceeded to the third reading of the bill to regulate trade and intercourse with the Indian tribes.

Resolved, That this bill do pass with amendments.

The Senate proceeded to the third reading of the bill to provide more effectually for the settlement of the accounts between the United States and the individual States.

Resolved, That this bill do pass with amendments.

The Senate proceeded in the second reading of the bill providing for holding a treaty or treaties to establish peace with certain Indian tribes.

Ordered, That this bill be committed to Messrs. SCHUYLER, GUNN, and LANGDON.

JULY 13, 1790.]

Proceedings.

[SENATE.]

MONDAY, July 12.

Mr. CARROLL reported, from the committee appointed July the 2d, on the motion that provision shall be made the next session of Congress for loaning to the United States a sum not exceeding twenty-two millions of dollars, in certificates issued by the respective States for services or supplies towards the prosecution of the late war, which report was read; and,

Ordered, That the said report be printed for the consideration of the Senate.

A message from the House of Representatives informed the Senate, that they have agreed to the amendment of the Senate to the bill further to provide for the payment of the invalid pensioners of the United States;

They disagree to the first and second amendments of the Senate to the bill to establish the Post-office and post roads within the United States; they disagree to the first amendment in the 11th section, and to the several amendments in the 13th, 23d, 24th, and 31st sections, and agree to all the other amendments proposed by the Senate;

They disagree to the third amendment of the Senate to the bill for the government and regulation of seamen in the merchants' service; and they agree to all the other amendments proposed by the Senate;

They have also passed the bill sent from the Senate for concurrence, for establishing the temporary and permanent seat of the Government of the United States.

A message from the House of Representatives informed the Senate, that they agree to all the amendments proposed by the Senate to the bill to regulate trade and intercourse with the Indian tribes, except the third, to which they disagree.

The Senate proceeded to the consideration of their amendments disagreed to by the House of Representatives, to the bill to establish Post-offices and post roads within the United States; and

Resolved, That they insist on their amendments disagreed to by the House of Representatives, that a conference be desired with such managers as the House of Representatives may appoint, on the disagreeing votes of the two Houses: and that Messrs. ELLSWORTH, KING, and STRONG, be managers at the conference on the part of the Senate.

The Senate proceeded to consider their amendment, disagreed to by the House of Representatives, on the bill for the government and regulation of seamen in the merchant service.

Resolved, That they recede from their amendment to this bill.

The Senate proceeded to consider their third amendment, disagreed to by the House of Representatives, to the bill to regulate trade and intercourse with the Indian tribes, and

Resolved, That they insist on their amendment to the said bill.

Mr. READ, from the committee appointed on the 29th of June, on the bill imposing duties on

the tonnage of ships or vessels, reported the bill without amendment; whereupon,

Ordered, That this bill be now read the third time.

Resolved, That this bill do pass.

TUESDAY, July 13.

A message from the House of Representatives informed the Senate, that they have agreed to the proposed conference on the bill to establish the Post-office and post roads within the United States, and have appointed managers on their part:

They insist on their disagreement to the third amendment proposed by the Senate to the bill to regulate trade and intercourse with the Indian tribes, and desire a conference thereon; and, having appointed managers on their part, request the concurrence of the Senate in their appointment of managers at the proposed conference.

The Senate proceeded to consider the report of the committee appointed July the 2d, on the motion "That provision shall be made the next session of Congress, for loaning to the United States a sum not exceeding twenty-two millions of dollars;" which report is in the words following:

Whereas, a provision for the debt of the respective States by the United States would be greatly conducive to an orderly, economical, and effectual arrangement of the public finances; would tend to an equal distribution of burthens among the citizens of the several States; would promote more general justice to the different classes of public creditors, and would serve to give stability to public credit: And, whereas, the said debts having been essentially contracted in the prosecution of the late war, it is just that such provision should be made:

Resolved, That a loan be proposed, to the amount of twenty-one millions of dollars, and that subscriptions to the said loans be received at the same times and places, by the same persons, and upon the same terms, as in respect to the loan which may be proposed concerning the domestic debt of the United States, subject to the exceptions and qualifications hereafter mentioned. And that the sums which shall be subscribed to the said loan shall be payable in the principal and interest of the certificates or notes, which, prior to the first day of January last, were issued by the respective States, as acknowledgments or evidences of debts by them respectively owing; and which shall appear, by oath or affirmation, (as the case may be,) to have been the property of an individual or individuals, or body politic, other than a State, on the said first day of January last. *Provided*, That no greater sum shall be received in the certificates of any State, than as follows, that is to say:

In those of New Hampshire,	-	-	\$300,000
In those of Massachusetts,	-	-	4,000,000
In those of Rhode Island and Providence Plantations,	-	-	200,000
In those of Connecticut,	-	-	1,600,000
In those of New York,	-	-	1,200,000
In those of New Jersey,	-	-	800,000
In those of Pennsylvania,	-	-	2,200,000

SENATE.]

Proceedings.

[JULY 14, 1790.]

In those of Delaware,	-	-	200,000
In those of Maryland,	-	-	800,000
In those of Virginia,	-	-	3,200,000
In those of North Carolina,	-	-	2,200,000
In those of South Carolina,	-	-	4,000,000
In those of Georgia,	-	-	300,000

\$21,000,000

And, Provided, That no such certificate shall be received, which, from the tenor thereof, or from any public record, act, or document, shall appear, or can be ascertained to have been issued for any purpose other than compensations and expenditures for services or supplies towards the prosecution of the late war, and the defence of the United States, or of some part thereof during the same.

Resolved, That the interest upon the certificates which shall be received in payment of the sums subscribed towards the said loan, shall be computed to the last day of the year one thousand seven hundred and ninety-one inclusively; and the interest upon the stock, which shall be created by virtue of the said loan, shall commence or begin to accrue on the first day of the year one thousand seven hundred and ninety-two, and shall be payable quarter yearly, at the same time, and in like manner, as the interest on the stock to be created by virtue of the loan that may be proposed in the domestic debt of the United States.

Resolved, That, if the whole of the sum allowed to be subscribed in the debt or certificates of any State, as aforesaid, shall not be subscribed within the time for that purpose limited, such State shall be entitled to receive, and shall receive from the United States, at the rate of four per centum per annum, upon so much of the said sum as shall not have been so subscribed, in trust for the non-subscribing creditors of such State, to be paid in like manner as the interest on the stock which may be created by virtue of the said loan, and to continue until there shall be a settlement of accounts between the United States and the individual States; and, in case a balance shall then appear in favor of such State, until provision shall be made for the said balance.

But as certain States have respectively issued their own certificates in exchange for those of the United States, whereby it might happen that interest might be twice payable on the same sums;

Resolved, That the payment of interest, whether to States or individuals, in respect to the debt of any State by which such exchange shall have been made, shall be suspended, until it shall appear, to the satisfaction of the Secretary of the Treasury, that certificates issued for that purpose, by such State, have been re-exchanged or redeemed, or until those which shall not have been re-exchanged or redeemed shall be surrendered to the United States.

And it is further

Resolved, That the faith of the United States be, and the same is hereby pledged to make like provision for the payment of interest on the amount of the stock arising from subscriptions to the said loan, with the provision which shall be made touching the loan that may be proposed in the domestic debt of the United States; and so much of the debt of each State as shall be subscribed to the said loan, shall be

a charge against such State in account with the United States.

It was agreed that the preamble should be postponed.

A motion was made to amend the first paragraph of the report, as follows:

After the word "persons," in the third line, strike out "and upon the same terms as in respect to the loans which may be proposed concerning the domestic debt of the United States;" and insert, after the word "mentioned," in the 5th line, as follows: "And the subscribers shall receive certificates for the principal and interest of the sum so subscribed, one of which certificates shall purport that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum equal to two-thirds of the said sum so subscribed, bearing an interest of six per centum per annum, payable quarter yearly, and subject to redemption by payments not exceeding, in one year, on account both of principal and interest, the proportion of eight dollars upon a hundred of the sum mentioned in such certificate; and, to another certificate, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum equal to twenty-six dollars and eighty-eight cents on every hundred dollars of the sum so subscribed, which, after the year one thousand eight hundred, shall bear an interest of six per centum per annum, payable quarter yearly, and subject to redemption by payments not exceeding, in one year, on account both of principal and interest, the proportion of eight dollars upon a hundred of the sum mentioned in such certificate: *Provided always,* That it shall not be understood that the United States shall be bound, or obliged to redeem, in the proportion aforesaid, but it shall be understood only that they have a right so to do."

On motion to postpone the amendment to take the opinion of the Senate whether the debts of the individual States shall be assumed by the United States:

The motion for postponement passed in the negative.

On motion to postpone the report of the committee to take up the bill, entitled "An act making provision for the debt of the United States."

It passed in the negative.

On motion,

Resolved, That the rule prescribed for the second reading of bills be adopted in considering this report of the committee.

On motion to strike out the words, "twenty-one millions of dollars," in the first paragraph of the report, and that it stand a blank,

It passed in the negative.

WEDNESDAY, July 14.

The Senate proceeded to consider the resolve of the House of Representatives of the 13th of July, proposing a conference on the third amendment of the Senate to the bill to regulate trade and intercourse with the Indian tribes, and

Resolved, That the Senate agree to the proposed conference, and that Messrs. SCRUTLER, ELLSWORTH,

JULY 14, 1790.]

Proceedings.

[SENATE.]

and STROKS, be managers thereof on the part of the Senate.

A message from the House of Representatives informed the Senate, that they have disagreed to all the amendments of the Senate to the bill to provide more effectually for the settlement of the accounts between the United States and the individual States; they propose a conference on the amendments, and, having appointed managers on their part, desire the concurrence of the Senate in their appointment of managers at the proposed conference.

The Senate took into consideration the resolve of the House of Representatives of this day, proposing a conference on the bill to provide more effectually for the settlement of the accounts between the United States and the individual States.

Resolved, That the Senate agree to the conference, and that Messrs. ELLSWORTH, KING, and LEE, be managers thereof on the part of the Senate.

The Senate resumed the consideration of the report of the committee appointed July 2d, on the motion "That provision shall be made the next session of Congress for loaning to the United States a sum not exceeding twenty-two millions of dollars."

On motion to agree to the following paragraph of the report:

"Resolved, That a loan be proposed to the amount of twenty-one millions of dollars, and that subscriptions to the said loan be received at the same times and places, by the same persons, and upon the same terms, as in respect to the loans which may be proposed concerning the domestic debt of the United States, subject to the exceptions and qualifications hereafter mentioned."

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Ellsworth, Elmer, Johnson, Izard, King, Langdon, Morris, Paterson, Read, Schuyler, and Strong.—14.

NAYS.—Messrs. Bassett, Few, Foster, Hawkins, Henry, Johnston, Lee, Maclay, Stanton, Walker, and Wingate.—11.

So it passed in the affirmative.

On motion, the paragraph of the report following the above, from the words "and the sums," to the words "January last," inclusive, was agreed to.

A motion was made to add to the paragraph last agreed to, after the words "January last," "and in bills of the new emission money due from the States respectively;" and

It passed in the negative.

On motion, it was agreed to adopt the clauses of the report in course to the end of the schedule.

On motion to expunge the last paragraph of the first resolve reported, to wit, from the words "and provided," to the word "same," inclusive;

It passed in the negative.

On the question to agree to this paragraph,

It passed in the affirmative.

On motion, it was agreed to adopt the second resolution to the reported words "United States," inclusive.

On motion to amend the third resolution, by striking out these reported words, "at the rate of four per centum per annum," and insert, "an interest of — per centum per annum, at the same rate as shall be allowed to the domestic creditors of the United States:"

It passed in the negative.

On motion to adopt the third resolution, as follows:

"Resolved, That, if the whole of the sum allowed to be subscribed in the debt or certificates of any State, as aforesaid, shall not be subscribed within the time for that purpose limited, such State shall be entitled to receive, and shall receive from the United States, at the rate of four per centum per annum, upon so much of the said sum as shall not have been so subscribed, in trust for the non-subscribing creditors of such State, to be paid in like manner as the interest on the stock which may be created by virtue of the said loan, and to continue until there shall be a settlement of accounts between the United States and the individual States, and in case a balance shall then appear in favor of such State, until provision shall be made for the said balance."

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Carroll, Ellsworth, Few, Gunn, Hawkins, Henry, Johnson, Johnston, Izard, Lee, Maclay, Read, Stanton, and Walker.—15.

NAYS.—Messrs. Butler, Dalton, Elmer, Foster, King, Langdon, Morris, Paterson, Schuyler, Strong, and Wingate.—11.

So it passed in the affirmative.

On motion, the clauses of the report were agreed to, from the words, "but as certain States," to the words "United States," in the fourth resolution.

On motion to expunge these words, in the last resolution, to wit: "From the subscriptions to the said loan," and insert the following words in their place, "under this act:"

It passed in the negative.

And, on motion, the last resolution reported by the committee was agreed to.

On motion to agree to the preamble of the report, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Ellsworth, Elmer, Few, Foster, Johnson, Izard, King, Langdon, Morris, Paterson, Read, Schuyler, and Strong.—16.

NAYS.—Messrs. Bassett, Gunn, Hawkins, Henry, Johnston, Lee, Maclay, Stanton, Walker, and Wingate.—10.

So it passed in the affirmative.

On motion that this report, together with the bill making provision for the debt of the United States, be referred to a special committee, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Dalton, Gunn, Johnson, Izard, King, Morris, Paterson, Schuyler, and Strong.—10.

SENATE.]

Proceedings.

[JULY 19, 1790.]

NAVS.—Messrs. Bassett, Carroll, Ellsworth, Elmer, Few, Foster, Hawkins, Henry, Johnston, Langdon, Lee, Maclay, Read, Stanton, Walker, and Wingate.—16.

So it passed in the negative.

Ordered, That the report of the committee pass to another reading.

THURSDAY, July 15.

The report of the committee on the motion, "That provision shall be made the next session of Congress, for loaning to the United States a sum of money not exceeding twenty-two millions of dollars," was again read, and together with the bill entitled "An act making provision for the debt of the United States," was committed to Messrs. BUTLER, MORRIS, READ, ELLSWORTH, KING, LEE, and STRONG.

FRIDAY, July 16.

A message from the House of Representatives informed the Senate, that they have passed a bill to amend the "act for the establishment and support of light-houses, beacons, buoys and public piers;" and a resolve "that in the opinion of this House, the business now depending before the two Houses, may be finished by Tuesday the 27th instant, and that it will be convenient and proper that an adjournment of the present session of Congress should take place on that day;" in which bill and resolve they desire the concurrence of the Senate.

Ordered, That the bill to amend the act for the establishment and support of light-houses, beacons, buoys, and public piers," be now read the first time.

Ordered, That this bill passed to a second reading.

The resolve of the House of Representatives of this day, that Congress do adjourn on Tuesday the 27th instant, was read.

Ordered, That it lie for consideration.

Mr. SCHUYLER reported from the committee appointed July the 9th, on the bill providing for holding a treaty or treaties to establish peace with certain Indian tribes; which report was read, and it was agreed that the bill should be amended accordingly.

Ordered, That this bill pass to the third reading.

Mr. BUTLER, from the committee appointed July the 15th on the bill making provision for the debt of the United States, and to whom was committed the report of the committee on the motion "That provision shall be made the next session of Congress, for loaning to the United States a sum not exceeding twenty-two millions of dollars," reported as follows:

That having maturely considered all circumstances they are of the opinion that the principal of the domestic debt should be funded agreeable to the third alternative in the report of the Secretary of the Treasury; and that the interest which may be due thereon, including indents, be funded at the rate of three per cent. per annum, and that whatever sum the

Legislature may think proper to assume of the State's debt, be funded at the proportion of two-thirds thereof, agreeable to the third alternative in the Secretary's report, and the other third at three per cent. per annum.

Your committee further recommend that the resolutions for the assumption be added to the funding bill, and the whole made one system.

It was agreed to adopt this report, except the last clause; and, on the question to agree to the last clause, to wit: your committee further recommend that the resolutions for the assumption be added to the funding bill, and the whole made one system; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Ellsworth, Elmer, Few, Johnson, Izard, King, Langdon, Morris, Paterson, Read, Schuyler, and Strong.—15.

NAVS.—Messrs. Bassett, Foster, Gunn, Hawkins, Henry, Johnston, Lee, Maclay, Stanton, Walker, and Wingate.—11.

It passed in the affirmative, and the report was agreed to.

Ordered, That the report, committed July the 15th, together with the bill, entitled "An act making provision for the debt of the United States," be recommitted, with an instruction to the committee to conform the bill to the principles of the reports.

SATURDAY, July 18.

The Senate proceeded to the third reading of the bill providing for holding a treaty or treaties to establish peace with certain Indian tribes.

Resolved, That this bill do pass with an amendment.

The Senate proceeded to the second reading of the bill to amend the act for the establishment and support of light-houses, beacons, buoys and public piers."

Ordered, That this bill pass to the third reading.

Mr. BUTLER, from the committee to whom was re-committed the bill making provision for the debt of the United States, reported the bill, amended upon the principles agreed on yesterday.

Ordered, That the bill, as amended by the committee, be printed for the consideration of the Senate.

MONDAY, July 19.

The Senate proceeded to the third reading of the bill to amend the act for the establishment and support of light-houses, beacons, buoys, and public piers.

Resolved, That this bill do pass.

A message from the House of Representatives informed the Senate, that they have passed a bill, entitled "an act to provide more effectually for the collection of duties imposed by law on goods, wares, and merchandise imported

JULY 19, 1790.]

Proceedings.

[SENATE.]

into the United States, and on the tonnage of ships or vessels; and a resolve, providing for the salaries of the clerks in the office of the commissioner of Army accounts, to which they desire the concurrence of the Senate: that they have agreed to the amendment proposed by the Senate to the bill providing for holding a treaty or treaties to establish peace with certain tribes; that they have passed a bill making further provision for the payment of the debts of the United States, to which they desire the concurrence of the Senate, and that they have agreed to the third amendment of the Senate to the bill, entitled "An act to regulate trade and intercourse with the Indian tribes."

The Senate proceeded to consider the report of the committee to whom was recommitteed the bill making provision for the debt of the United States, and the report thereon; which report being read, it was agreed to amend the bill accordingly.

The Senate proceeded in the third reading of the bill, making provision for the debt of the United States, and agreed to sundry amendments.

On motion further to amend the bill, section third, and provide for funding of the bills of credit issued by the authority of the United States, at the rate of forty for one, the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Dalton, Foster, King, Langdon, Morris, Paterson, Schuyler, Strong and Wingate.—9.

NAYS.—Messrs. Bassett, Butler, Carroll, Ellsworth, Elmer, Few, Gunn, Hawkins, Henry, Johnston, Izard, Lee, Maclay, Read, Stanton and Walker.—16.

So it passed in the negative.

On motion to amend the bill, so as that the above-mentioned bills of credit be funded at the rate of seventy-five for one:

It passed in the negative.

And it was agreed, line 23d, to strike out "seventy-five," and fund the said bills of credit at the rate of one hundred for one; and to strike out from the original bill the proviso in the third section.

It was agreed to strike out the whole of section fourth, and insert section fourth and fifth amended.

On motion to amend section fourth of the amendment, to read as follows:

"And be it further enacted, That, for the whole, or any part of any sum subscribed to the said loan by any person or persons, or body politic, which shall be paid in the principal of the said domestic debt, the subscriber or subscribers shall be entitled to a certificate purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to the sum so paid, bearing interest of six per centum per annum, payable quarter yearly, and subject to redemption by payments, not exceeding, in one year, on account both of principal and interest, the proportion of seven dollars upon a hundred of the sum mentioned in such certificate: Provided always, That it shall not be understood that the United States shall be

bound or obliged to redeem in the proportion aforesaid, but it shall be understood only that they have a right so to do;" the yeas and nays were required by one-fifth of the Senators present:

YEAS.—Messrs. Gunn, King, Morris, Paterson, Schuyler, and Walker.—6.

NAYS.—Messrs. Bassett, Butler, Carroll, Dalton, Ellsworth, Elmer, Few, Foster, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Maclay, Read, Stanton, Strong, and Wingate.—19.

So it passed in the negative.

On motion to amend the first clause of the amendment agreed to, section fourth, to read thus:

"And be it further enacted, that for the whole or any part of any sum subscribed to the said loan, by any person or persons, or body politic, which shall be paid in the principal and interest of the said domestic debt," so as to enable the subscribers to the loan to pay their subscriptions in interest as well as principal; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Few, Hawkins, King, Langdon, Morris, Paterson, Schuyler, and Walker.—8.

NAYS.—Messrs. Bassett, Butler, Carroll, Dalton, Ellsworth, Elmer, Foster, Gunn, Henry, Johnston, Izard, Lee, Maclay, Read, Stanton, Strong, and Wingate.—17.

So it passed in the negative.

On motion to amend the amendment agreed to, so that the fourth section may provide that the second certificate given to the subscriber should entitle him to

"A sum to be expressed therein, equal to the proportion of thirty-three and one-third dollars, instead of twenty-six dollars and eighty-eight cents, upon one hundred of the sum so paid, which, after the year eighteen hundred, shall bear an interest of six per cent;" the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Elmer, Henry, King, Langdon, Morris, Paterson, Schuyler, and Walker.—9.

NAYS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Few, Foster, Hawkins, Johnston, Izard, Lee, Maclay, Read, Stanton, Strong, and Wingate.—15.

So it passed in the negative.

On motion to amend section fourth of the amendment agreed to as follows:

"And be it further enacted, that for the whole or any part of any sum subscribed to the said loan, by any person or persons, or body politic, which shall be paid in the principal of the said domestic debt, the subscriber or subscribers shall be entitled to a certificate purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, the whole of the sum by him, her, or them subscribed, bearing an interest of four per centum per annum, payable quarter yearly, and subject to redemption by payments, not exceeding, in one year, on account of both principal and interest, the proportion of six dollars upon a hundred of the said sum: Provided, That it shall not be understood, that the United States shall be bound, or obliged to redeem, in the proportion aforesaid, but it shall be understood only that they have a right so to do;" the yeas

SENATE.]

Proceedings.

[JULY 21, 1790.]

and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Few, Foster, Hawkins, Johnston, Maclay, Stanton, and Wingate.—8.

NAYS.—Messrs. Butler, Carroll, Dalton, Ellsworth, Elmer, Gunn, Henry, Izard, King, Langdon, Lee, Morris, Paterson, Read, Schuyler, Strong, and Walker.—17.

So it passed in the negative.

On motion to amend the last clause of the last amendment agreed to, to wit, of section fifth, so as to entitle the subscriber, for any sum subscribed to the said loan, and which shall be paid in the interest of the domestic debt, to a certificate for such sum subscribed, bearing an interest of six per cent.; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. King, Morris, Paterson, Schuyler, and Walker.—5.

NAYS.—Messrs. Bassett, Butler, Carroll, Dalton, Ellsworth, Elmer, Few, Foster, Gunn, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Maclay, Read, Stanton, Strong, and Wingate.—20.

So it passed in the negative.

On motion to amend the last clause of the last amendment agreed to, to wit, of section fifth, so as to entitle the subscribers, for any sum subscribed to the said loan, and which shall be paid in the interest of the domestic debt, to a certificate for the sum subscribed, bearing an interest of four per cent.; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Elmer, Henry, King, Langdon, Morris, Paterson, Schuyler, and Walker.—8.

NAYS.—Messrs. Bassett, Butler, Carroll, Dalton, Ellsworth, Few, Foster, Gunn, Hawkins, Johnston, Izard, Lee, Maclay, Read, Stanton, Strong, and Wingate.—17.

So it passed in the negative.

Sundry other amendments being agreed to,

Ordered, That the further consideration of this bill be postponed until to-morrow.

TUESDAY, July 20.

The Senate agreed to dispense with the rules so far as that the bill "to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," be referred to Messrs. MORRIS, LANGDON, DALTON, FOSTER and HENRY, prior to the first reading, to consider and report thereon.

A message from the House of Representatives informed the Senate, that they have passed a bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota.

The Senate proceeded in the third reading of the bill, making provision for the debt of the United States.

On motion to strike out the 13th, 14th, 15th, 16th, 17th, and 18th sections reported by the committee.

The yeas and nays were required by one-fifth of the Senators present, and were:

Messrs. Bassett, Few, Foster, Gunn, Hawkins, Henry, Johnston, Lee, Maclay, Stanton, Walker, and Wingate.—12.

NAYS.—Messrs. Butler, Carroll, Dalton, Ellsworth, Elmer, Johnson, Izard, King, Langdon, Morris, Paterson, Read, Schuyler, and Strong.—14.

So it passed in the negative.

Sundry other amendments being agreed to:

Ordered, That the further consideration of this bill be postponed.

The Senate proceeded to the first reading of the bill making further provision for the payment of the debts of the United States.

Ordered, That this bill pass to a second reading.

The Senate proceeded to the first reading of the bill "to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota."

Ordered, That this bill pass to a second reading.

The resolve "providing for the salaries of the clerks in the office of the Commissioner of Army Accounts" was read, and, ordered to lie for consideration.

WEDNESDAY, July 21.

The Senate proceeded to the second reading of the "bill making further provision for the payment of the debts of the United States."

Ordered, That this bill be committed to Messrs. LEE, IZARD, MORRIS, ELLSWORTH, and FEW.

Proceeded to the second reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota."

Ordered, That this bill be committed to Messrs. LEE, STRONG, and ELLSWORTH.

A message from the House of Representatives informed the Senate that they have passed a bill "concerning Consuls and Vice-Consuls of the United States in foreign parts," in which they request the concurrence of the Senate.

Ordered, That the bill concerning Consuls and Vice-Consuls of the United States in foreign parts, be now read the first time.

Ordered, That this bill pass to the second reading.

The Senate proceeded in the third reading of the "bill making provision for the debt of the United States."

On the question, "Shall this bill pass, as amended?" the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Carroll, Dalton, Ell-

JUNE 24, 1790.]

Proceedings.

[SENATE.]

worth, Elmer, Johnson, Izard, King, Langdon, Morris, Paterson, Read, Schuyler, and Strong.—14.
NAYS.—Messrs. Bassett, Few, Foster, Gunn, Hawkins, Henry, Johnston, Lee, Maclay, Stanton, Walker, and Wingate.—12.

So it was

Resolved, That this bill do pass as amended.

The Senate proceeded to consider the resolve of the House of Representatives, "providing for the salaries of the clerks in the office of the Commissioner of Army Accounts."

Ordered, That it be committed to Messrs. WINGATE, MACLAY, and ELMER.

Mr. ELLSWORTH, from the managers on the conference on the amendments of the Senate to the bill, "to provide more effectually for the settlement of the accounts between the United States and the individual States," reported.

Ordered, That the report lie for consideration.

THURSDAY, July 22.

Mr. MORRIS reported from the committee appointed July the 20th, on the bill to provide more effectually for the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

Ordered, That the rule be dispensed with, and that this bill be considered as in the second reading; in which, having made progress, the further consideration of it was postponed until to-morrow.

A message from the House of Representatives informed the Senate, that they have resolved, that they do insist on their disagreement to some, and recede therefrom to other amendments proposed by the Senate to the bill to provide more effectually for the settlement of the accounts between the United States and the individual States.

Mr. LEE, from the committee appointed July the 21st, on the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota, reported the bill without amendment.

FRIDAY, July 23.

The Senate proceeded to consider the resolve of the House of Representatives on the report of the managers of the conference on the disagreeing votes of the two Houses, in the amendments of the Senate to the bill to provide more effectually for the settlement of the accounts between the United States and the individual States.

Resolved, That the Senate recede from so much of their amendment, section 1st, as to agree to the amendment of the House of Representatives on the amendment, as follows: after the word "assembled," section 1st, line 2nd, "that a board, to consist of three Commissioners, be, and hereby is, established, to settle the accounts between the United States and

the individual States; and the determination of a majority of the said Commissioners, on the claims submitted to them, shall be final and conclusive; and they shall have power to employ such number of clerks as they may find necessary;" that they recede from their first amendment, so far as to restore section 2d of the bill; that they recede from their amendments to the 3d section, and from their sixth amendment, and agree to restore the 6th section.

Ordered, That the Secretary acquaint the House of Representatives therewith.

A message from the House of Representatives informed the Senate, that they adhere to, and insist on some, and recede from other amendments of the Senate to the bill to establish the Post-office and post-roads within the United States."

Mr. WINGATE reported, from the committee appointed July 21st, on the resolve "providing for the salaries of the clerks in the office of the Commissioner of Army Accounts."

The Senate proceeded in the second reading of the bill to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

Ordered, That this bill be re-committed, for the purpose of making some further amendments.

SATURDAY, July 24.

Mr. ELLSWORTH reported from the managers on the bill to establish the Post-office and post-roads within the United States; whereupon, the Senate proceeded to consider the resolve of the House of Representatives of the 22d of July, adhering to some, insisting on some, and agreeing to other amendments of the Senate to the said bill.

Resolved, That the Senate adhere to their amendments, sections 1st and 2d, line 1st to 27th; and recede from their amendments in the 24th and 31st sections, with the exceptions proposed by the House of Representatives, and that they agree to the amendment proposed by the House of Representatives in the 23d section, with an amendment.

The Senate proceeded in the second reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota.

Ordered, That the further consideration thereof be postponed.

The Senate proceeded to the consideration of the report of the committee on the resolution of the House of Representatives, of the 17th of July, to wit:

"That the clerks in the office of the Commissioner of Army Accounts are entitled to receive for their services a sum not exceeding five hundred dollars; to be paid in the same manner and at the same rate as the salary allowed to the clerks in the Treasury Department; and that the Auditor and Comptroller be authorized to adjust the accounts of the clerks in the said office, upon the same princi-

ples as those of the Treasury Department, agreeably to the appropriation by law;" and,

Resolved, That they concur in the said resolution.

Ordered, That the consideration of the bill to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandises imported into the United States, and on the tonnage of ships or vessels, be further postponed.

MONDAY, July 26.

The Senate proceeded in the second reading of the bill concerning Consuls and Vice Consuls of the United States in foreign parts, and it was referred to Messrs. MORRIS, KING, and LANGDON to consider and report thereon.

The Senate resumed the second reading of the bill to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandises imported into the United States, and on the tonnage of ships or vessels; and, having agreed to sundry amendments,

Ordered, That the rule be dispensed with so far as that this bill have the third reading at this time; in which, having made progress, the further consideration thereof was postponed.

TUESDAY, July 27.

A message from the House of Representatives informed the Senate, that they have agreed to some amendments of the Senate to the bill making provision for the debt of the United States; and have agreed to others with amendments; in which amendments to the amendments they desire the concurrence of the Senate.

The Senate proceeded to consider the resolution of the House of Representatives upon the amendments proposed by the Senate to the bill making provision for the debt of the United States.

Ordered, That the resolution be printed for the use of the Senate.

The Senate resumed the third reading of the bill to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandises imported into the United States, and on the tonnage of ships or vessels; and

Resolved, That this bill do pass with amendments.

The Senate resumed the second reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota; and, after debate, the further consideration thereof was postponed.

WEDNESDAY, July 28.

The Senate resumed the consideration of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of

the river Ohio, between the Little Miami and Sciota.

Ordered, That it be recommitted.

A message from the House of Representatives informed the Senate, that they have agreed to all the amendments of the Senate to the bill to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandises imported into the United States, and on the tonnage of ships or vessels; and they have passed the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons.

The Senate proceeded to consider the resolutions of the House of Representatives, of the 24th and 26th of July, and their amendments to the amendments of the Senate to the bill making provision for the debt of the United States; and,

Resolved, That they agree to the first amendment, to wit: line 12th, strike out "seven," and insert "eight:"

This reserves to the United States the power to redeem, at their option, of the sum borrowed, at the rate of eight per cent. per annum.

On motion to agree to the second amendment, to wit: line 17th, strike out "twenty-six dollars and eighty-eight cents," and insert "thirty-three dollars and one-third of a dollar:"

This will entitle the subscriber to a second certificate for thirty-three and one-third dollars of the sum subscribed, instead of twenty-six dollars and eighty-eight cents on every hundred; his second, or deferred certificate, to bear an interest of six per cent. after the year 1800; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Butler, Dalton, Elmer, Gunn, Henry, Izard, King, Langdon, Morris, Paterson, Schuyler, and Walker.—12.

NAYS.—Messrs. Bassett, Carroll, Ellsworth, Few, Foster, Hawkins, Johnston, Lee, Read, Stanton, Strong, and Wingate.—12.

The numbers being equal, the Vice President determined the question in the affirmative.

On motion to disagree to the third amendment, to wit: line 19th, strike out "eight hundred," and insert "seven hundred and ninety-seven:"

This provides that the subscriber shall be entitled to an interest of six per cent. on his deferred certificate, after the year 1797, instead of 1800; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Bassett, Carroll, Ellsworth, Few, Foster, Hawkins, Johnston, Lee, Read, Stanton, Strong, and Wingate.—12.

NAYS.—Messrs. Butler, Dalton, Elmer, Gunn, Henry, Izard, King, Langdon, Morris, Paterson, Schuyler, and Walker.—12.

The numbers being equal, the Vice President determined the question in favor of the amendment.

JULY 28, 1790.]

Proceedings.

[SENATE.]

The fourth amendment to the amendments, line 23d, strike out "seven," and insert "eight," was agreed to:

This provides that the United States may redeem, by annual payments, on account of principal and interest, at the rate of eight per cent. instead of seven per cent. per annum.

On the question to agree to the fifth amendment, to wit: line 40th, strike out "three," and insert "four:"

This provides that the subscribers shall be entitled to an interest of four, instead of three per cent., for such part of their subscription as they may pay in the arrears of interest, including indents; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Dalton, Henry, King, Langdon, Morris, Paterson, Schuyler, and Walker.—8.

NAYS.—Messrs. Bassett, Butler, Carroll, Ellsworth, Elmer, Few, Foster, Gunn, Hawkins, Johnston, Izard, Lee, Read, Stanton, Strong, and Wingate.—16.

It passed in the negative.

The sixth amendment to the amendments was agreed to, as follows:

Provided also, and be it further enacted. That if the total amount of the sums which shall be subscribed to the said loan, in the debt of any State, within the time limited for receiving subscriptions thereto, shall exceed the sum by this act allowed to be subscribed within such State, the certificates and credits granted to the respective subscribers shall bear such proportion to the sums by them respectively subscribed, as the total amount of the said sums shall bear to the whole sum so allowed to be subscribed in the debt of such State within the same; and every subscriber to the said loan shall, at the time of subscribing, deposit with the commissioner the certificates or notes to be loaned by him.

The seventh amendment to the amendments was agreed to, to wit: to the second clause or section, line 13th, strike out "seven," and insert "eight:"

This applies to the assumed debt, and provides that the United States may redeem by annual payments, on account of principal and interest, at the rate of eight per cent. instead of seven per cent. per annum.

On motion to agree to the eighth amendment, to wit: lines 18th and 19th, strike out "twenty-six dollars and eighty-eight cents," and insert "thirty-three dollars and one-third of a dollar:"

This applies to the assumed part of the debt, and will entitle the subscriber to a second certificate for thirty-three dollars and one-third of a dollar per cent., instead of twenty-six dollars and eighty-eight cents on every hundred; the said second certificate to be on interest at six per cent. after the year 1800; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Butler, Dalton, Elmer, Henry, Johnston, Izard, King, Langdon, Morris, Paterson, Schuyler, Strong, and Walker.—13.

NAYS.—Messrs. Bassett, Carroll, Ellsworth, Few, Foster, Gunn, Hawkins, Lee, Read, Stanton, and Wingate.—11.

It passed in the affirmative.

On motion to agree to the ninth amendment to the amendments, to wit: line 21st, strike out "eight hundred," and insert "seven hundred and ninety-seven:"

This provides, as it applies to the assumed debts, that the subscriber shall be entitled to an interest of six per cent. on the deferred part of the sum subscribed after the year 1797, instead of 1800; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Butler, Dalton, Elmer, Henry, Izard, King, Langdon, Morris, Paterson, Schuyler, and Strong.—11.

NAYS.—Messrs. Bassett, Carroll, Ellsworth, Few, Foster, Gunn, Hawkins, Johnston, Lee, Read, Stanton, Walker, and Wingate.—13.

It passed in the negative.

On motion to reconsider the third amendment to the amendments of the Senate, the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Few, Foster, Hawkins, Johnston, Izard, Lee, Paterson, Read, Stanton, Strong, and Wingate.—16.

NAYS.—Messrs. Butler, Gunn, Henry, King, Langdon, Morris, Schuyler, and Walker.—8.

It passed in the affirmative.

On the question to agree to the third amendment of the House of Representatives on the amendments of the Senate, the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Butler, Gunn, Henry, King, Langdon, Morris, Schuyler, and Walker.—8.

NAYS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Elmer, Few, Foster, Hawkins, Johnston, Izard, Lee, Paterson, Read, Stanton, Strong, and Wingate.—16.

It passed in the negative.

On motion to agree to the tenth amendment to the amendments, to wit: line 25th, strike out "seven," and insert "eight."

This applies to the assumed part of the debt, as the amendment seventh applies to the domestic debt; the ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Butler, Dalton, Elmer, Henry, Izard, King, Langdon, Morris, Paterson, Schuyler, Strong, and Walker.—12.

NAYS.—Messrs. Bassett, Carroll, Ellsworth, Few, Foster, Gunn, Hawkins, Johnston, Lee, Read, Stanton, and Wingate.—12.

The numbers being equal, the question was by the Vice President determined in the affirmative.

On motion to agree to amendment eleventh, on the amendments of the Senate, to wit: line 31st, strike out "three," and insert "four."

This provides, as it applies to the assumed debts, that the subscriber shall be entitled to an

SENATE.]

Proceedings.

[AUGUST 4, 1790.]

interest of four per cent. instead of three per cent. for one-third of the sum by him subscribed:

The ayes and nays were required by one-fifth of the Senators present, and were:

AYES.—Messrs. Dalton, Henry, King, Langdon, Morris, Paterson, Schuyler, and Walker.—8.

NAYS.—Messrs. Bassett, Butler, Carroll, Ellsworth, Elmer, Few, Foster, Gunn, Hawkins, Johnston, Izard, Lee, Read, Stanton, Strong, and Wingate.—16.

THURSDAY, July 29.

The Senate proceeded to the first reading of the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons.

Ordered, That this bill do pass to its second reading.

A message from the House of Representatives informed the Senate, that they have receded from such of their amendments to the amendments of the Senate as were disagreed to on the bill, entitled "An act making provision for the debt of the United States."

They have passed the bill to continue in force, for a limited time, an act, entitled "An act for the temporary establishment of the Post-office."

Ordered, That the bill to continue in force, for a limited time, an act, entitled "An act for the temporary establishment of the Post-office," be now read the first time.

It was agreed that the rule should be so far dispensed with as that this bill have the second reading at this time.

Ordered, That this bill pass to the third reading.

The Senate agreed to dispense with the rule so far as that the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons, be now read the second time.

Ordered, That this bill be committed to Messrs. SCHUYLER, GUNN, and BASSETT.

FRIDAY, July 30.

The Senate proceeded to the third reading of the bill, entitled "An act to continue in force, for a limited time, an act, entitled An act for the temporary establishment of the Post office."

Resolved, That this bill do pass.

MONDAY, August 2.

A letter from the Treasurer of the United States was read, enclosing his quarterly accounts, made up to the 30th of June, 1790.

Ordered, That this letter and the enclosures lie for consideration.

Mr. SCHUYLER reported, from the committee to whom was referred the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons, and it was agreed to amend the bill accordingly.

Ordered, That this bill pass to the third reading.

Mr. LEE, from the committee to whom was referred the bill, entitled "An act making further provision for the payment of the debts of the United States," reported sundry amendments.

Ordered, That the bill, as proposed by the committee to be amended, be printed for the consideration of the Senate.

Mr. KING reported, from the committee on the bill concerning Consuls and Vice Consuls of the United States, in foreign parts: whereupon the further consideration of the bill was postponed till the next session.

The Senate then entered on Executive business. A message from the President of the United States was read, nominating William Perry, of the State of Delaware, to be one of the Judges in the Territory southwest of the Ohio; and John Stokes, to be Judge of the North Carolina district, in place of William R. Davie, who has declined the appointment. Samuel Russell Gerry, to be Collector of the port of Marblehead, in the place of Richard Harris, deceased. Zachariah Rhodes, to be Surveyor of the Port of Pawtucket, and Thomas Arnold, to be Surveyor of the Port of East Greenwich, in the place of the persons formerly appointed, who had declined serving.

The nominations also, of Joshua Johnson, of Maryland, to be Consul at London; Francisco Sarmiento, to be Vice Consul at Teneriffe; John Street, to be Vice Consul at Fayal; and Ebenezer Brush, of New York, to be Consul at Surinam.

These nominations were ordered to lie for consideration.

TUESDAY, August 3.

The Senate proceeded in the second reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Sciota, and agreed to expunge the second, third, and fourth sections.

Ordered, That this bill, as amended, pass to the third reading.

The Senate proceeded to consider the report of the committee on the bill making further provision for the payment of the debts of the United States, and agreed that it be the order of the day for to-morrow.

The Senate then entered on Executive business; and confirmed the nominations made to them yesterday by the President, except that of Francisco Sarmiento, which was negatived. They also confirmed the nomination of D. S. Updike to the Surveyorship of the North Kingdom.

WEDNESDAY, August 4.

A message from the House of Representatives informed the Senate, that they have passed the bill, declaring the assent of Congress to

AUGUST 6, 1790.]

Proceedings.

[SENATE.]

certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the Committee on the bill, making further provision for the payment of the debts of the United States; and agreed thereto, as amended.

Ordered, That this bill, as amended, pass to its third reading.

The Senate then entered on Executive business, and the following message from the President of the United States was read:

UNITED STATES, August 4th, 1790.

Gentlemen of the Senate:

In consequence of the general principles agreed to by the Senate in August, 1789, the adjustment of the terms of a treaty is far advanced between the United States and the Chiefs of the Creek Indians now in this city, in behalf of themselves and the whole Creek Nation.

In preparing the articles of this treaty, the present arrangements of the trade with the Creeks have caused much embarrassment. It seems to be well ascertained, that the trade is almost exclusively in the hands of a company of British merchants, who, by agreement, make their importations of goods from England into the Spanish ports.

As the trade of the Indians is a main means of their political management, it is therefore obvious, that the United States cannot possess any security for the performance of treaties with the Creeks, while their trade is liable to be interrupted, or withheld, at the caprice of two foreign powers.

Hence it becomes an object of real importance to form new channels for the commerce of the Creeks through the United States. But this operation will require time, as the present arrangements cannot be suddenly broken without the greatest violation of faith and morals.

It therefore appears to be important to form a secret article of a treaty, similar to the one which accompanies this message.

If the Senate should require any further explanation, the Secretary of War will attend them for that purpose.

GEO. WASHINGTON.

The President of the United States puts the following question for the consideration and advice of the Senate: If it should be found essential to a treaty for the firm establishment of peace with the Creek nation of Indians, that an article to the following effect should be inserted therein, will such an article be proper? viz:

SECRET ARTICLE.

The commerce necessary for the Creek nation shall be carried on through the ports, and by the citizens of the United States, if substantial and effectual arrangements shall be made for that purpose by the United States, on or before the 1st day of August, one thousand seven hundred and ninety-two. In the mean time, the said commerce may be carried on through its present channels, and according to its present regulations.

And whereas, the trade of the said Creek nation is now carried wholly, or principally, through the territories of Spain, and obstructions thereto, may hap-

pen by war or prohibitions of the Spanish Government: it is therefore agreed between the said parties, that in the event of such obstructions happening, it shall be lawful for such persons as ———

shall designate, to introduce into, and transport through the territories of the United States to the country of the said Creek nation, any quantity of goods, wares, and merchandise, not exceeding in value, in any one year, sixty thousand dollars, and that free from any duties or impositions whatsoever, but subject to such regulations for guarding against abuse, as the United States shall judge necessary; which privilege shall continue as long as such obstruction shall continue.

GEO. WASHINGTON.

UNITED STATES, August 4th, 1790.

The Senate proceeded to consider the message from the President of the United States, of this day; whereupon,

Resolved, That the Senate do advise and consent to the execution of the secret article referred to in the message, and that the blank in said article be filled with the words "President of the United States."

THURSDAY, August 5.

The bill declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, was read the first time.

Ordered, That this bill pass to the second reading.

A message from the House of Representatives informed the Senate, that they have passed the bill for adding two commissioners to the board established for settling the accounts between the United States and the individual States; in which they desire the concurrence of the Senate.

The Senate proceeded to the third reading of the bill making further provision for the payment of the debt of the United States and after being further amended, it was

Resolved, That this bill do pass as amended.

The Senate proceeded to the first reading of the bill, entitled "An act for adding two commissioners to the board established for settling the accounts between the United States and the individual States;"

And the question, whether it shall pass to the second reading? was postponed.

The bill "for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons," was taken into consideration, and it was agreed further to postpone the third reading.

FRIDAY, August 6.

A message from the House of Representatives informed the Senate, that they have passed a bill authorizing the Secretary of the Treasury to finish the light-house on Portland Head, in the District of Maine; and the bill making an appropriation for discharging the claim of Sarah Alexander, the widow of the late Major

SENATE.]

Proceedings.

[AUGUST 7, 1890.]

General Lord Stirling, who died in the service of the United States; and the resolve "that the President of the Senate and Speaker of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Tuesday next," to meet again on the first Monday in December next; in which bills and resolve they desire the concurrence of the Senate.

The resolve of the House of Representatives proposing an adjournment of the two Houses on Tuesday next, was read, and ordered to lie on the table.

The bill authorizing the Secretary of the Treasury to finish the light-house on Portland Head, in the District of Maine, was read the first time.

Ordered, That this bill pass to the second reading.

The bill making an appropriation for discharging the claim of Sarah Alexander, the widow of the late Major General Lord Stirling, who died in the service of the United States," was read the first time.

The Senate proceeded to the consideration of the bill for adding two commissioners to the board established for settling the accounts between the United States and the individual States; and, on the question, "shall this bill pass to the second reading?"

It passed in the negative.

A message was received from the President of the United States, informing Congress that the Legislature of New Jersey has ratified all the amendments proposed by them to the Legislatures of the several States, except the second.

Ordered, That the message and its enclosures be filed.

The Senate proceeded to the third reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying north-west of the river Ohio, between the Little Miami and Sciota; and a motion was made to amend the same. The amendments were ordered to be printed.

It was agreed so far to dispense with the rule as that the bill declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, be now read the second time.

Ordered, That this bill be committed to MESSRS. FOSTER, GUNN, and HENRY, to consider and report thereon.

The Senate proceeded to consider the report of the committee on the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons.

The report recommended certain amendments, which were agreed to, and the bill passed its third reading.

The Senate then entered on Executive business.

The following message from the President of the United States was read, as follows:

UNITED STATES, August 5, 1790.

Gentlemen of the Senate:

Considering the circumstances which prevented the late Commissioners from concluding a peace with the Creek nation of Indians, it appeared to me most prudent that all subsequent measures for disposing them to a treaty should, in the first instance, be informal.

I informed you, on the 4th instant, that the adjustment of the terms of a treaty with their chiefs, now here, was far advanced. Such further progress has since been made, that I think measures may at present be taken for conducting and concluding that business in form. It therefore becomes necessary that a proper person be appointed and authorized to treat with them. For this purpose I nominate to you Henry Knox.

GEO. WASHINGTON.

The Senate agreed to dispense with the rule, so far as to take into consideration the above message at this time, and

Resolved, That they do advise and consent to the appointment of Henry Knox, agreeably to the nomination therein contained.

Another message from the President of the United States was then read, as follows:

UNITED STATES, August 6, 1790.

Gentlemen of the Senate:

I nominate the following persons to be Commissioners of Loans, in the States to which their names are respectively affixed, viz:

In the State of New Hampshire,	Nathaniel Gilman.
Massachusetts,	Nathaniel Appleton.
Rhode Island,	
Connecticut,	William Inlay.
New York,	John Cochran.
New Jersey,	James Ewing.
Pennsylvania,	Thomas Smith.
Maryland,	Thomas Harwood.
Virginia,	John Hopkins.
North Carolina,	William Skinner.
South Carolina,	John Neufville.
Georgia,	Richard Wyley.

GEO. WASHINGTON.

Ordered, To lie for consideration.

SATURDAY, August 7.

The Senate proceeded to the second reading of the bill authorizing the Secretary of the Treasury to finish the light-house on Portland Head, in the District of Maine.

It was agreed, by unanimous consent, that this bill be now read the third time.

Resolved, That this bill do pass.

The Senate proceeded to consider the report of the committee on the third reading of the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying north-west of the river Ohio, between the Little Miami and Sciota, which report was amended as follows:

After the word "Ohio," fourth line, insert "according to the act of cession from the said State to the United States;"

AUGUST 9, 1790.]

Proceedings.

[SENATE]

And it was agreed to amend the bill in conformity to the report.

Resolved, That this bill do pass as amended.

A message from the House of Representatives informed the Senate, that they had agreed to the amendments of the Senate to the bill making further provision for the payment of the debts of the United States, with amendments; to which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill making further provision for the payment of the debts of the United States; and

Resolved, That they concur therein.

Mr. SCHUYLER, from the committee on the bill making an appropriation for discharging the claim of Sarah Alexander, the widow of the late Major General Lord Stirling, who died in the service of the United States, reported certain amendments thereto, which were agreed to, and the bill passed its third reading.

The bill for altering the times of holding the courts in South Carolina and Georgia, was read the first time.

It was agreed, by unanimous consent, that this bill be now read the second time.

Ordered, That it pass to the third reading.

On motion to take up the resolution of the House of Representatives of the 6th of August, to wit: "That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on Tuesday next, to meet again on the first Monday of December next,

A motion was made to postpone the consideration thereof, to take up the following motion: "That leave be given to bring in a bill to repeal the fifth section of an act for establishing the temporary and permanent seat of the Government of the United States; which passed in the negative, and the consideration of the resolution of the House of Representatives was resumed; and,

Resolved, That the Senate do concur in the resolution of the House of Representatives.

Ordered, That the Secretary acquaint the House of Representatives therewith.

The Senate then entered on Executive business, and confirmed the nominations of the Commissioners of Loans, made by the message of the President yesterday.

Another message from the President was then laid before the Senate, nominating Jabez Brown to be Commissioner of Loans, in the State of Rhode Island, and Daniel Benezet, jr. to be Collector of the port of Great Egg Harbor, in New Jersey.

Which nominations were considered and confirmed.

The following message was then received and read, from the President of the United States:

UNITED STATES, August 7th, 1790.

Gentlemen of the Senate:

I lay before you a treaty between the United States and the Chiefs of the Creek nation, now in this city, in behalf of themselves and the whole Creek nation, subject to the ratification of the President of the United States, with the advice and consent of the Senate.

While I flatter myself that this treaty will be productive of present peace and prosperity to our southern frontier, it is to be expected that it will also, in its consequences, be the means of firmly attaching the Creeks and the neighboring tribes to the interests of the United States.

At the same time, it is to be hoped that it will afford solid grounds of satisfaction to the State of Georgia, as it contains a regular, full, and definitive relinquishment, on the part of the Creek nation, of the Oconee land, in the utmost extent in which it has been claimed by that State, and thus extinguishes the principal cause of those hostilities from which it has more than once experienced such severe calamities.

But although the most valuable of the disputed land is included, yet there is a certain claim of Georgia, arising out of the treaty made by that State at Galphinston, in November, 1785, of land to the eastward of a new temporary line from the forks of the Oconee and Oakmölgee, in a southwest direction, to the St. Mary's river, which tract of land the Creeks in this city absolutely refuse to yield.

This land is reported to be generally barren, sunken, and unfit for cultivation, except in some instances on the margin of the rivers, on which, by improvement, rice might be cultivated—its chief value depending on the timber fit for the building of ships, with which it is represented as abounding.

While it is thus circumstanced, on the one hand, it is stated by the Creeks, on the other, to be of the highest importance to them, as constituting some of their most valuable winter hunting ground.

I have directed the Commissioner, to whom the charge of adjusting this treaty has been committed, to lay before you such papers and documents, and to communicate to you such information relative to it as you may require.

G. WASHINGTON.

Ordered, That the message, with the treaties therein referred to, be read, and that they lie for consideration.

MONDAY, August 9.¹

A message from the House of Representatives informed the Senate, that they had resolved, that Messrs. GILMAN, WHITE, and SMITH, of South Carolina, be a committee to join with such committee as the Senate shall appoint, to wait on the President of the United States, and notify him of the proposed recess of Congress. They have concurred in the amendments of the Senate to the bill to enable the officers and soldiers of the Virginia line, on continental establishment, to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and the Sciota; that they have concurred in the amendments of the Senate to the bill making an appropriation for

SENATE.]

Proceedings.

[AUGUST 10, 1790.]

discharging the claim of Sarah Alexander, the widow of the late Major General Lord Stirling, who died in the service of the United States; and in the amendments of the Senate to the bill for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons.

Mr. FOSTER, from the committee appointed to consider the bill declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, reported the following amendment:

Strike out the words "for the term of three years from the passing of this act," and in their place insert these words, "until the tenth day of January next."

Resolved, That this bill do pass as amended.

The resolution of the House of Representatives, that Messrs. GILMAN, WHITE, and SMITH, of South Carolina, be a committee, to join with such committee as the Senate shall appoint, to wait on the President of the United States, and notify him of the proposed recess of Congress, was read, and ordered to lie for consideration.

The bill for altering the times of holding the courts of South Carolina and Georgia, was read the third time, and passed.

A message from the House of Representatives informed the Senate, that they had agreed to the amendment of the Senate to the bill declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations.

They have concurred in the bill to alter the times for holding the Circuit Courts of the United States, in the districts of South Carolina and Georgia, with an amendment; in which amendment they desire the concurrence of the Senate.

They have "resolved, that all surveys of lands in the western territory, made under the direction of the late geographer, Thomas Hutchins, be returned to, and perfected by, the Secretary of the Treasury;" and that they have also passed a bill making provision for the reduction of the public debt; in which bill and resolution they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill to alter the times for holding the Circuit Courts of the United States, in the districts of South Carolina and Georgia; and,

Resolved, That they concur therein.

The bill making provision for the reduction of the public debt, was read the first time.

Ordered, That this bill pass to the second reading, and that it be printed for consideration.

The Senate proceeded to consider the resolution of the House of Representatives of this day, "that all surveys of lands in the western territory, made under the direction of the late geographer, Thomas Hutchins, agreeable to

contracts for part of the said lands made with the late Board of Treasury, be returned to, and perfected by, the Secretary of the Treasury, so as to complete the said contracts; and that the said Secretary be, and is hereby authorized to direct the making and completing any other surveys that remain to be made; so as to comply, on the part of the United States, with the several contracts aforesaid, in conformity to the terms thereof;" and,

Resolved, That they concur therein.

Ordered, That the consideration of the resolution of the House of Representatives, proposing a joint committee to wait on the President of the United States, to notify him of the proposed recess of Congress, be postponed.

The Senate then entered on Executive business; and a message from the President was read, nominating William Irvine, of Pennsylvania, John Taylor Gilman, of New Hampshire, and John Kean, of South Carolina, to be Commissioners for settling the accounts between the United States and individual States. Which message was ordered to lie for consideration.

The Senate resumed the consideration of the message of the 7th instant, in relation to the treaty with the Creeks. On a motion to refer the treaty to a select committee, the yeas and nays being required, were as follows:

YEAS.—Messrs. Butler, Few, Foster, Gunn, Henry, Johnson, Lee, and Morris.—8.

NAYS.—Messrs. Carroll, Dalton, Ellsworth, Hawkins, Izard, King, Paterson, Read, Stanton, and Wingate.—10.

It passed, therefore, in the negative.

On motion, "That, on the final question, when the advice and consent of the Senate is requested, any member shall have a right to enter his protest or dissent on the journal, with reasons in support of such dissent; provided the same be offered within two days after the determination on such final question:"

The yeas and nays being required, were as follows:

YEAS.—Messrs. Butler, Gunn, Izard, and Lee.—4.

NAYS.—Messrs. Carroll, Dalton, Ellsworth, Few, Foster, Hawkins, Henry, Johnson, King, Morris, Paterson, Read, Schuyler, Stanton, and Wingate.—15.

And it passed in the negative.

The further consideration of this message was postponed.

TUESDAY, August 10.

A message from the House of Representatives informed the Senate, that they had passed a bill making certain appropriations therein mentioned; in which they desire the concurrence of the Senate.

The Senate proceeded to the second reading of the bill, entitled "An act making provision for the reduction of the public debt," which being further amended,

AUGUST 11, 1790.]

Proceedings.

[SENATE.]

Resolved, That this bill be passed to its third reading as amended.

Ordered, That the Secretary desire the concurrence of the House of Representatives in the amendment to this bill.

On motion,

Resolved, That the resolution of the 7th instant, authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on this day, be repealed; and, instead thereof, that they be authorized and directed to adjourn their respective Houses on the 12th instant, to meet again on the first Monday of December next.

Ordered, That the Secretary carry this resolution to the House of Representatives, and desire their concurrence therein.

The Senate resumed the consideration of the resolution of the House of Representatives of the 9th of August, appointing a committee to wait on the President of the United States, and notify him of the proposed recess of Congress; and

Resolved, That they concur therein, and that Messrs. IZARD and JOHNSTON be the committee on the part of the Senate.

The bill, entitled "An act making certain appropriations therein mentioned," was read the first time.

Ordered, That this bill pass to the second reading.

A message from the House of Representatives informed the Senate, that they agree to the resolution of the Senate, to defer the adjournment of the two Houses of Congress to Thursday, the twelfth instant.

The Senate then entered on Executive business, and confirmed the nomination made yesterday of Commissioners for settling the accounts between the United States and the individual States.

Another message of the President nominated John C. Jones to be Collector of Cedar Point, in Maryland, and Jeremiah Jordan to be Surveyor of the port of Llewellysburg, in Maryland; which nominations were confirmed.

WEDNESDAY, August 11.

Mr. IZARD, from the committee of both Houses, appointed to notify the President of the United States of the intended adjournment of Congress, reported, that they had waited on the President of the United States, and informed him that the two Houses of Congress had agreed to adjourn on Thursday, the twelfth instant.

A message from the House of Representatives informed the Senate, that they agree to all the amendments of the Senate to the bill making provision for the reduction of the public debt.

The Senate proceeded to the second reading of the bill making certain appropriations therein mentioned.

On motion, it was agreed to amend the bill, by the insertion of the following clause, after

the word "captivity," in the 7th line: "the sum of forty thousand dollars towards discharging certain debts contracted by Colonel Timothy Pickering, late Quartermaster General; and which sum was included in the amount of a warrant drawn in his favor by the late Superintendent of the Finances of the United States, and which warrant was not discharged."

It was agreed, by unanimous consent, that this bill, as amended, pass to its third reading.

Resolved, That this bill do pass as amended.

A message from the House of Representatives informed the Senate that they agree to the amendment of the Senate to the bill making certain appropriations therein mentioned.

The Senate then entered on Executive business; and the following message was received and read, from the President of the United States:

UNITED STATES, August 11, 1790.

Gentlemen of the Senate:

Although the treaty with the Creeks may be regarded as the main foundation of the future peace and prosperity of the southwestern frontier of the United States, yet, in order fully to effect so desirable an object, the treaties which have been entered into with the other tribes in that quarter must be faithfully performed on our part.

During the last year, I laid before the Senate a particular statement of the case of the Cherokees. By a reference to that paper it will appear, that the United States formed a treaty with the Cherokees in November, 1785; that the said Cherokees thereby placed themselves under the protection of the United States, and had a boundary assigned them; that the white people settled on the frontiers had openly violated the said boundary, by intruding on the Indian lands; that the United States, in Congress assembled, did on the first day of September, 1788, issue their proclamation, forbidding all such unwarrantable intrusions, and enjoined all those who had settled upon the hunting grounds of the Cherokees to depart with their families and effects, without loss of time, as they would answer their disobedience to the injunctions and prohibitions expressed, at their peril.

But information has been received that, notwithstanding the said treaty and proclamation, upwards of five hundred families have settled on the Cherokee lands, exclusively of those settled between the fork of French Broad and Holstein rivers, mentioned in the said treaty.

As the obstructions to a proper conduct on this matter have been removed since it was mentioned to the Senate, on the 22d of August, 1789, by the accession of North Carolina to the present Union, and the cessions of the land in question, I shall conceive myself bound to exert the powers intrusted to me by the constitution, in order to carry into faithful execution the treaty of Hopewell, unless it shall be thought proper to attempt to arrange a new boundary with the Cherokees, embracing the settlements, and compensating the Cherokees for the cessions they shall make on the occasion. On this point, therefore, I state the following questions, and request the advice of the Senate thereon:

1st. Is it the judgment of the Senate that over-

tures shall be made to the Cherokees to arrange a new boundary, so as to embrace the settlements made by the white people since the treaty of Hopewell, in November, 1785?

2d. If so, shall compensation, to the amount of — dollars annually, or of — dollars in gross, be made to the Cherokees for the land they shall relinquish, holding the occupiers of the land accountable to the United States for its value?

3d. Shall the United States stipulate solemnly to guarantee the new boundary which may be arranged?

GEO. WASHINGTON.

Agreed, by unanimous consent, to proceed to the consideration of this message. Whereupon,

Resolved, That the Senate do advise and consent that the President of the United States do, at his discretion, cause the treaty concluded at Hopewell with the Cherokee Indians, to be carried into execution, according to the terms thereof, or to enter into arrangements for such further cessions of territory, from the said Cherokee Indians, as the tranquillity and interest of the United States may require: provided the sum which may be stipulated to be paid to the Cherokee Indians do not exceed one thousand dollars annually; and provided, further, that no person who shall have taken possession of any lands within territory assigned to the said Cherokee Indians, by the said treaty of Hopewell, shall be confirmed in any such possessions, but by a compliance with such terms as Congress may hereafter prescribe.

Resolved, In case a new, or other boundary than that stipulated by the treaty of Hopewell, shall be concluded with the Cherokee Indians, that the Senate do advise and consent solemnly to guaranty the same.

— — —
THURSDAY, August 12.

A message from the House of Representatives informed the Senate, that the House of Representatives having finished the business before them are about to adjourn, agreeably to the vote of the two Houses of Congress on Tuesday last.

On motion,

Resolved, unanimously, That the thanks of the Senate be given to the corporation of the city of New York for the elegant and convenient accommodations provided for Congress, and that a copy of

this resolve be enclosed in the following letter from the Vice President:

NEW YORK, August 12, 1790.

SIR: It is with great pleasure, that, in obedience to an order of the Senate of the United States, I have the honor to enclose their resolution of this date, which was unanimously agreed to; and, in behalf of the Senate, I request that you will be pleased to communicate the same to the corporation of the city, and, at the same time, signify to them, that it is the wish of the Senate that the corporation will permit such articles of furniture, &c. now in the City Hall, as have been provided by Congress, to remain for the use of that building.

I am, sir, your most obedient humble servant,

JOHN ADAMS,

*Vice President of the United States,
and President of the Senate.*

To the Mayor of the city of New York.

The Senate then entered on Executive business, and proceeded to consider the message from the President of the United States, of the 7th of August, 1790, communicating a treaty entered into with the Chiefs of the Creek nation of Indians.

And, on the question to advise and consent to the ratification of the said treaty, made with the Creek nation, and referred to in the message of the President of the United States, of the 7th of August, 1790; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Carroll, Dalton, Ellsworth, Foster, Hawkins, Henry, Johnson, Johnston, Izard, King, Lee, Paterson, Read, Schuyler, and Stanton.—15.

NAYS.—Messrs. Butler, Few, Gunn, and Walker.—4.

The Senate resuming their Legislative character.

Ordered, That the Secretary acquaint the House of Representatives that the Senate having finished the Legislative business before them, are about to adjourn, agreeably to the vote of both Houses of Congress of the 10th instant.

And the Vice President adjourned the Senate accordingly, to meet on the first Monday in December next.

HISTORY

OF

THE PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

SECOND SESSION OF THE FIRST CONGRESS, HELD AT THE CITY OF NEW YORK,

JANUARY 4, 1790.

THURSDAY, January 4.

The following is a list of the Members composing the House of Representatives:

New Hampshire—NICHOLAS GILMAN, SAMUEL LIVERMORE, and ABIEL FOSTER.

Massachusetts—FISHER AMES, ELBRIDGE GERRY, BENJAMIN GOODHUE, JONATHAN GROUT, GEORGE LEONARD, GEORGE PARTRIDGE, GEORGE THATCHER, and THEODORE SEDGWICK.

Connecticut—BENJAMIN HUNTINGTON, ROGER SHERMAN, JONATHAN STURGIS, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

New York—EGBERT BENSON, WILLIAM FLOYD, JOHN HATHORN, JEREMIAH VAN RENSSELAER, JOHN LAWRENCE, and PETER SYLVESTER.

New Jersey—ELLAS BOUDINOT, LAMBERT CADWALADER, JAMES SCHUREMAN, and THOMAS SINICKSON.

Pennsylvania—GEORGE CLYMER, THOMAS FITZSIMONS, THOMAS HARTLEY, DANIEL HEISTER, F. A. MUHLENBERG, *Speaker*, PETER MUHLENBERG, THOMAS SCOTT, and HENRY WYCKOFF.

Delaware—JOHN VINING.

Maryland—DANIEL CARROLL, BENJAMIN CONTEE, GEORGE CALE, JOSHUA SENEY, WILLIAM SMITH, and MICHAEL JENIFER STONE.

Virginia—THEODORE BLAND, JOHN BROWN, ISAAC COLES, SAMUEL GRIFFIN, RICHARD BLAND LEE, JAMES MADISON, JUN., ANDREW MOORE, JOHN PAGE, ALEXANDER WHITE, and JOSIAH PARKER.

South Carolina—EDMUND BURKE, DANIEL HUGER, WILLIAM SMITH, THOMAS SUMTER, and THOMAS TUDOR TUCKER.

Georgia—ABRAHAM BALDWIN, JAMES JACKSON, and GEORGE MATHEWS.

The SPEAKER and twenty-five other members, viz. Messrs. FOSTER, GILMAN, LIVERMORE, AMES, GERRY, GOODHUE, GROUT, PARTRIDGE, THATCHER, SHERMAN, BENSON, FLOYD, LAWRENCE, P. MUHLENBERG, SCOTT, SENEY, BROWN, COLES, GRIFFIN, WHITE, BURKE, HUGER, SMITH, (of S. C.,) TUCKER, and BALDWIN, appeared and took their seats; but not being a quorum, they adjourned.

TUESDAY, January 5.

Mr. BOUDINOT took his seat.—No quorum.

WEDNESDAY, January 6.

Mr. SCHUREMAN, Mr. PAGE, and Mr. LEE took their seats.—No quorum.

THURSDAY, January 7.

JONATHAN STURGIS and JEREMIAH WADSWORTH, from Connecticut, JEREMIAH VAN RENSSELAER, from New York, DANIEL CARROLL, from Maryland, and GEORGE MATHEWS, from Georgia, appearing and taking their seats, a quorum of the whole House was present; of which the Senate were informed.

The SPEAKER laid before the House a letter from the President of the United States, of the 4th instant, requesting that when there shall be a sufficient number of the two Houses of Congress assembled to proceed to business, he may be informed of it; and, also, at what time and place it will be convenient for Congress that he should meet them, in order to make some oral communications at the commencement of their session; which was read, and ordered to lie on the table.

A message from the Senate informed the House, that they had appointed a committee on their part, jointly with such committee as shall be appointed on the part of the House, to wait on the President of the United States, and notify him that a quorum of the two Houses had assembled, and will be ready, in the Senate Chamber, at such time as he shall appoint, to receive any communications which he shall think proper to make.

Messrs. GILMAN, AMES, and SENEY, were then appointed a committee on the part of the House for the purpose expressed in the message from the Senate.

It was then ordered, That a committee be appointed to examine the Journal of the last session, and to report therefrom all such mat

H. OF R.]

Journal of the House.

[JANUARY 8, 1790.]

ters of business as were then depending and undetermined, and a committee was appointed, consisting of Messrs. BOUDINOT, SHERMAN, and WHITE.

Resolved, That two Chaplains of different denominations be appointed to Congress for the present session, one by each House, who shall interchange weekly.

Ordered, That the Clerk of the House do carry the said resolution to the Senate, and desire their concurrence.

Mr. GILMAN, from the committee appointed to wait on the President of the United States, pursuant to the order of this day, reported that they had, according to order, performed that service, and that the President was pleased to say he would attend to make his communications to both Houses of Congress to-morrow morning at 11 o'clock.

FRIDAY, JANUARY 8.

HENRY WYNKOOP, from Pennsylvania, appeared, and took his seat.

The Speaker and members present attended in the Senate Chamber, to receive the President of the United States, who addressed both Houses. His address will be found in the Proceedings of the Senate, page 969.

The Speaker and the members of the House having returned from the Senate, a copy of the President's Speech was read, and committed to a Committee of the whole House on to-morrow.

The Journal was then read by the Clerk.

Mr. BOUDINOT moved to correct the title by striking out all the words, after declaring it merely the Journal of the House of Representatives. He was seconded by Mr. BENSON.

Mr. PAGE opposed it, because the title of the Journal contained nothing more than the fact. It was denominated the Second Session of the First Congress under the Constitution of the Government of the United States, proposed September 17th, 1787, by the Convention in Philadelphia; and he called upon gentlemen to say, if this was more or less than the truth; besides, it was perfectly consonant with Parliamentary practice; if the last sitting of Congress, and the present were to be determined one session, then all business would proceed from the state in which it had been left last September; now this was contrary to the rule established by the *Lex Parliamentaria*, and might be productive of bad consequences. If the words are to be struck out, the natural implication will be, that the two sittings are but one session.

Mr. BOUDINOT declared, he had no design of deciding the question alluded to by his honorable friend. It was merely to rid the Journal of words which appeared to him superfluous.

Mr. SHERMAN was in sentiment with the gentleman from New Jersey; he did not wish to give an opinion respecting the unfinished business of last session, but he thought the regula-

tion on that head had better be established by a joint rule of both Houses.

Mr. TUCKER remarked, that the question "whether the business of last session was to be taken up *de novo*, or to be continued onward from the state in which it had been left, was not properly before the House, but the word session, in his opinion, ought to be preserved in the Journal, because its meaning was of some importance. He observed, that the Legislature of South Carolina was a biennial body, and that it was for some time a matter of uncertainty whether the session was not the term of two years for which the Senate and House of Representatives were elected, but the point had been determined, upon a law passed to continue for a term of years, and from thence to the end of the next session of the Legislature, the efficacy of this law depended upon the meaning of the word session, and the courts of judicature were of opinion that a session was from the time of meeting until the rising of the Legislature, and no longer.

He conceived the title to be of no importance in any other point of view, but in this it might, as Congress had already passed a law for a term expiring at the end of the next session, he, therefore, wished the word to be defined, and he imagined it would be done by retaining it in the place it stood.

After some further desultory conversation, the title of the Journal was established by a vote of the House, as follows:

JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

At a session of the Congress of United States, begun and held at the city of New York, on Monday the 4th day of January, 1790, being the second session of the First Congress, held under the present Constitution of Government for the United States, being the day appointed by law for the meeting of the present session.

On the further reading of the Minutes, Mr. THATCHER observed, that a call of the House which had taken place at the meeting was not entered on the Journal.

Mr. PAGE was sorry to find any gentleman insist upon the entry of a measure which was not completed. He was concerned, likewise, that he had not been here to answer to his name, but he was delayed seven days by head winds, and two days by extreme badness of the roads. Under such circumstances, he thought the gentlemen who were so fortunate as to get here in time, deserved little more credit than those who were plunging at the risk of their lives through almost insuperable difficulties. He hoped it was not intended to stigmatize gentlemen who did not deserve it.

Mr. WHITE.—If the absentees were from the remote States, there would be some indelicacy in ordering a call of the House at so early a period of the session, because there might be natural unavoidable impediments to prevent their punctual attendance, but he had observ-

JANUARY 9, 1790.]

Secretary of the Treasury's Report.

[H. OF R.]

ed, that the absentees were mostly from the neighboring States, Connecticut, New York, New Jersey, and Pennsylvania; and some of the members had declared, they would not come until they were informed that there was a House. Now, in order to make the Journal a true transcript of what had really passed in the House, it was necessary to have this call inserted; for the motion was regularly made, seconded, and carried; the absentees were noted, and, after some time, they were called again, and those who were known to be sick, or on their way, were apologized for, and excused; here, indeed, the business terminated, and they were not ordered into the custody of the Sergeant-at-arms. After these remarks, he concluded by saying, that he did not move to have it inserted on the Journal, and was unconcerned about it.

Mr. LAWRENCE hoped the call would not be entered on the Journal, if it was intended to reproach the conduct of the absent members, for he was very well satisfied in his own mind, that few, if any, of them were guilty of neglecting their duty.

Mr. WADSWORTH likewise hoped the entry would not be made. He had left home a week ago, but had been detained by head winds. He dared to say that this would be found to be the case with respect to a number of other gentlemen; and as far as his knowledge went with relation to such as were absent, it was on necessary occasions.

Mr. PARTRIDGE did not wish to stigmatize any gentleman by an entry of this kind on the Journals. He meant simply that the fact should appear as it really happened in the House; however, as the business had not been completed, he would withdraw his second to the motion for having the entry made.

Mr. PAGE said, no new stigma could be received by him or his colleague, (Mr. LEE.) By the entry on the Journals, it appeared they were not here on Monday or Tuesday, but on Wednesday it is said that John Page and R. B. Lee appeared, and took their seats; consequently, what he had said could not be construed to favor himself or his colleague, but it was generally for those who had not been able to get here so soon.

The motion for entering on the Journals the call of the House, was withdrawn.

The House then proceeded to the appointment of a Chaplain for the present session; and, after a previous nomination, the Rev. Mr. LYNN was duly chosen.

— SATURDAY, January 9.

GEORGE CLYMER, from Pennsylvania, appeared, and took his seat.

SECRETARY OF THE TREASURY'S REPORT.

A letter from Alexander Hamilton, Secretary of the Treasury, was read, informing the House that, agreeably to their resolution of the 21st of September, he had prepared a Plan for

the support of the Public Credit, and that he was ready to report the same to this House, when they should be pleased to receive it.

It was proposed that Thursday next be assigned for this purpose.

Mr. GERRY wished to add to the motion, that it should be made in writing.

Mr. BOUDINOT hoped that the Secretary of the Treasury might be permitted to make his report in person, in order to answer such inquiries as the members might be disposed to make, for it was a justifiable surmise that gentlemen would not be able clearly to comprehend so intricate a subject without oral illustration.

Mr. CLYMER expressed some doubts with respect to the propriety of receiving oral communications from the Head of such an important Department. He was rather inclined to think that such communications ought to be in writing.

Mr. AMES conceived it to be the duty of the House to obtain the best information on any subject; but on this very important one they ought to be particularly careful to get it from the highest source. The Secretary of the Treasury is a most important and responsible officer; the delicacy of his situation required every indulgence to be extended to him, that had a tendency to enable him to complete the arduous undertaking in which he was engaged. It would be a real misfortune that a salutary measure should be defeated for want of being understood; yet the most advantageous plans may miscarry in their passage through this House, by reason of their not being clearly comprehended. He hoped, therefore, that the financier would be authorized to make such communications and illustrations as he judged necessary; but he wished these communications to be in writing; in this shape they would obtain a degree of permanency favorable to the responsibility of the officer, while, at the same time, they would be less liable to be misunderstood.

Mr. BENSON observed, that the Secretary of the Treasury was directed, by a resolution of the last session, to prepare a plan for the support of public credit, and to report the same at this meeting. The point to be settled is, whether it shall be done by an oral communication, or transmitted in writing? In the former order of the House, this point was untouched, and the Secretary was left at his discretion to prepare himself for reporting in either way; consequently when we have fixed the time for receiving his report, he may make it in the manner for which he is prepared; but no doubt, this officer, actuated by motives of deference and respect, will conform to any rule the House may think proper to enjoin.

Mr. GERRY conceived it would be necessary the Secretary should be authorized, by a vote of the House, to give explanations to his plans. This, he was not expressly authorized to do by the vote of the last session, which confined him merely to prepare a plan for support of the pub-

H: OF R.]

Unfinished Business.

[JANUARY 11, 1790.]

lic credit. Would any gentleman on this floor suppose himself capable of comprehending and combining the parts of a general system, calculated to produce such a grand effect? In a plan for supporting public credit may be comprehended every species of finance. The Secretary, under such an order, may propose an extension of your impost to entire new articles, an increase of some, and a diminution upon others. He may propose an introduction of a system of excise; with all these he may combine duties, stamps, and direct taxes. Can the human mind retain, with any great degree of decision, objects so extensive and multiform upon a mere oral communication? This consideration alone ought to be sufficient to induce gentlemen to agree to his proposition of making the report in writing; but his proposition extended still further, it went to give him a right to lay before them his explanations, if he thinks explanations necessary.

On the question, the resolution for receiving the report of the Secretary of the Treasury in writing, was carried in the affirmative.

PRESIDENT'S SPEECH.

On motion, the House now resolved itself into a Committee of the whole on the President's Speech. Mr. BALDWIN in the chair.

Mr. SMITH (of S. C.) proposed a resolution that an address be presented to the President, in answer to his Speech to both Houses, assuring him that this House will, without delay, proceed to take into their serious consideration the various and important matters recommended to their attention.

Mr. WHITE thought this motion hardly sufficient, it was too general to warrant a select committee to draught that particular reply which he hoped the House was disposed to make to every part of the President's Speech; he therefore begged the gentleman to withdraw it, and permit him to substitute one in its stead, which he read in his place.

Mr. BOUNDINOT thought the proposition just read by the honorable gentleman from Virginia much superior to that proposed by his worthy friend from South Carolina. It must have struck every gentleman that there were other matters contained in the Speech deserving of notice, besides those recommended to their serious consideration. There was information of the recent accession of the important State of North Carolina to the constitution of the United States. This event ought to be recognized in a particular manner, according to its importance; and he presumed to think that its importance was of the very first magnitude.

A desultory conversation now took place on amending the original proposition in such a manner as to embrace generally the subjects of the Speech; when, at length, it was amended to read as follows:

Resolved, As the sense of this committee, that an address be presented by the House to the President of the United States, in answer to his Speech to both

Houses, with assurances that this House will, without delay, proceed to take into consideration, the various and important matters recommended to their attention.

Whereupon, Messrs. SMITH, (of S. C.) CLYMER, and LAWRENCE, were appointed a committee to prepare the said address.

MONDAY, January 11.

JONATHAN TRUMBULL, from Connecticut; JOHN HATHORN, from New York; and ANDREW MOORE, from Virginia, appeared, and took their seats.

UNFINISHED BUSINESS.

Mr. BOUNDINOT, from the committee to whom it was referred to examine the Journal of the last session, and to report therefrom all such matters of business as were then depending and undetermined, have, according to order, examined the Journal, and agreed to the following report:

It appears to your committee, that the several petitions of David Ramsay, John Churchman, Alexander Lewis, Arthur Greer, Jedidiah Morse, John Fitch, Englehart Cruse, Nicholas Pike, Samuel Briggs, John Christopher Stoebel, Leonard Harbaugh, Hannah Adams, Christopher Colles, David Greenleaf, John Macpherson, Abraham Westervelt, James Rumsey, and William Hoy, respectively, praying for exclusive privileges as authors or inventors of some useful work or discovery, were ordered to lie on the table, and so remained during the session.

It further appears to your committee, that the several petitions of Martha Walker, Duncan Campbell, Tristram Coffin, William Finnie, Englebert Kemmana, Thomasin Gordon, Prudent Jenesse, Baron de Steuben, and Richard Ham, respectively, praying to be compensated for military services, or for injuries or losses sustained during the late war, were referred to the Secretary of the Treasury to examine and report to the present session.

It further appears to your committee, that the several petitions of John M'Garrah, Dudley Tyler, Patrick Bennet, John Hurt, James Gibbons, Archibald M'Alister, Alexander Power, attorney for Col. Flower's regiment, Henry Malcom, and Charles Markle, respectively, praying to be compensated for military services rendered during the late war, were referred to the Secretary of War, to examine and report upon, to the present session.

It further appears to your committee, that the several petitions of Andrew Newell, Seth Clarke, Sarah Parker, Bartlet Hinds, Robert Frazier, David Sturges, Richard Philips, James M'Lean, James Read, and Thomas Barclay, respectively, praying that certain claims which they exhibit against the United States, may be considered and allowed, were ordered to lie on the table, and so remained during the session.

It also appears to your committee, that the petition of Joseph Wheaton, sergeant-at-arms to this House, praying an inquiry into the charges exhibited against him in certain anonymous letters, was ordered to lie on the table, and so remained during the session.

Your committee further report, that committees

JANUARY 11, 1790.]

Order of Business.

[H. OF R

were appointed to prepare and bring in the several bills following, to wit:

A bill to establish an uniform system on the subject of bankruptcies throughout the United States.

A bill for the further encouragement of the commerce and navigation in the United States.

A bill providing for the actual enumeration of the inhabitants of the United States.

Also, a bill providing a proper system of regulation for the militia of the United States:

Neither of which bills were reported during the session.

It also appears to your committee, that there were postponed by this House for further consideration until the present session, the several bills, to wit:

A bill to promote the progress of science and useful arts, by securing to authors and inventors the exclusive right to their respective writings and discoveries.

A bill for the establishment of hospitals, for the relief of sick and disabled seamen, and prescribing regulations for the harbors of the United States.

A bill concerning the importation of certain persons prior to the year 1808.

A bill to establish a land-office in and for the Western Territory. Also, a bill sent from the Senate, entitled "An act for the punishment of certain crimes against the United States."

That the bill, entitled "An act to establish the seat of Government of the United States," was postponed by the Senate, for the further consideration of an amendment proposed by this House, until the present session.

And lastly, That the report of the committee appointed to examine into the measures taken by Congress, and the State of Virginia, respecting lands reserved for the officers and soldiers of the said State, was postponed by this House for further consideration, until the present session.

ANSWER TO THE PRESIDENT'S SPEECH.

Mr. SMITH, (of South Carolina,) from the committee appointed for the purpose of preparing an address in answer to the President's speech, presented a report; which being read,

Mr. PAGE moved to go into a Committee of the whole on the same to-morrow, which was agreed to,

Mr. GOODHUE observed, that he was a member of the committee, appointed at the last session, to prepare a bill for taking the census, or enumeration of the inhabitants of the United States, and wished to know whether it was desired by the House that the committee should proceed on that business; if it was, it was necessary that the committee should be enlarged, in order to answer the object of their appointment effectually; but as that would be attended with some inconvenience, it would perhaps be best to discharge the old committee and appoint a new one, to consist of a member from each State; and in order to take the sense of the House, he would make that motion.

Mr. SMITH, (of South Carolina,) wished the gentleman to withdraw his motion, in order that the House might go into the consideration of the several important matters recommended to their attention in the President's speech, and

refer them respectively to committees. If the gentleman from Massachusetts would conform to this sentiment, he would move to go into a Committee of the whole for that purpose.

Mr. WHITE remarked, that the President's speech had already been referred to a Committee of the whole; it was therefore unnecessary to adopt the motion of the gentleman from South Carolina.

Mr. GOODHUE, however, agreed to suspend his motion until the House should decide upon Mr. SMITH's.

The question was then taken on Mr. SMITH's motion, and passed in the negative.

ON THE ORDER OF BUSINESS.

Mr. GOODHUE then stated to the House one object which he had in view in moving that the committee be dismissed, was to determine whether the business of last session should proceed from the stage in which it was left, or be taken up *de novo*.

Mr. LEE considered this as a question of some importance; but he did not hesitate to say that it was decided by the uniform practice of Parliament, and on long experience it was found to be attended with the least inconvenience to commence all their proceedings anew at the commencement of a new session; but as it was a question of order, he would refer the decision of it to the Chair.

Mr. SHERMAN thought it a question that ought to be decided by the joint resolution of both Houses.

Mr. PAGE was of opinion that each House ought to establish its own rules to govern its proceedings, and that as it was consistent with Parliamentary usage to commence *de novo* the proceedings of each session, it would be proper for the House to pursue a like line of conduct.

Mr. TUCKER said it was a question that deserved very serious consideration, because an act might be passed at this session with the consent of only one branch of the Legislature, provided it was determined that the business should progress from the state in which it was left last September. He alluded to the bill respecting crimes and punishments, assented to by the Senate, and sent to this House for concurrence at the last session, and also the bill to establish the seat of Government of the United States, which had passed this House, and lay before the Senate for their assent to a small amendment.

If, on this occasion, the two Houses should establish different rules, one might proceed to pass one of those laws, contrary to the sense of the other, which would induce a consequent embarrassment; to avoid this, he thought it best that both Houses should be consulted, and establish an uniform rule. But while he was urging these arguments, he did not mean to contend that this House was not left to its own discretion to establish such rules as the majority might think proper.

As the question had been left to the decision

H. OF R.]

Order of Business.

[JANUARY 11, 1790.]

of the Chair, and several members called for Mr. SPEAKER's opinion, he stated to the House that it had been customary with those legislative assemblies which he had the honor of being a member of since the revolution, to continue the business from one session to another, during the time for which they were elected; but as this was not strictly consonant with the usage of the British Parliament, which some gentlemen think essential, although that body differ in many respects from this, and as the House had hitherto prescribed no rule in point, he did not conceive that the Chair ought to be considered as adequate to the decision.

Mr. SHERMAN said, it would involve an absurdity, if an act was to be passed by one House only, in the session; because it would assert in its title that it was an act of the whole Congress done at a session when one branch had never acted upon it; he was therefore of opinion, that the unfinished business which had passed from the one branch of the Legislature to the other ought to commence anew at the present session.

Mr. WHITE did not wish to hurry on a decision of this important question, though he was himself well prepared for it. He had never an idea but the business of a former session terminated with the session, and was to be taken up *de novo* at the subsequent meeting: this had been the invariable practice of Parliament through the period of their existence. If, then, it had been found advantageous by so enlightened a body, for a period of five hundred years, their experience was sufficient to satisfy his mind of its propriety; and nothing but solid and substantial objections would induce him to deviate from that principle. But besides the practice of Great Britain, he could adduce the mode of transacting business in Virginia, which was exactly conformable to the former instance.

He stated one instance in order to show the impropriety of a different conduct. The State of North Carolina had come into the Union during the recess; the laws that were unperfected before that period ought not to bind her until she had an opportunity of having a voice in enacting them. Now, if the unfinished business was to go on from the stage where it was left last session; a single hour might bind her contrary to her will, and contrary to the sentiments of a majority of the people.

Mr. SMITH, (of South Carolina,) said, the best way of trying the question, whether the business was to be considered as dead or not, was to move to appoint committees to the purposes for which such committees were appointed at the last session, and not to discharge the committee as moved by the gentleman from Massachusetts, because both the affirmative and negative implied that the committees are still in existence, which is the point in dispute.

Mr. LEE favored this last opinion, and hoped the question would be taken upon it.

Mr. LIVERMORE heartily concurred with the several gentlemen that were up, in this, that both the Senate and House ought to establish

some rule on this subject, and that the rule ought to be the same in both Houses. He wished it to be done before the business of the Legislature was thrown into confusion by a vote of one branch, which would not be acceded to by the other; for this reason, he moved that a committee be appointed to confer with a committee of the Senate, and report to both Houses a uniform rule of proceeding relative to the business of last session. As to his own opinion on the subject, he was free to declare, as his private judgment, that the business of the late session was at an end.

Mr. GOODNOW thought the first motion the best to settle the question, and therefore hoped it would be first put. He further observed, that there was a necessity for discharging the committee of three appointed to digest a plan for taking the census, because they were inadequate to the object. The mode of enumerating the inhabitants of the several States depended a good deal upon certain local regulations, and consequently required the circumstance of local information in those who were to bring forward the bill. This, he apprehended, would be best attained by forming the committee of a member from each State.

Mr. WHITE thought it of no use to appoint a committee to confer with a committee of the Senate, because they might report contrary to the sense of the House.

Mr. LEE was of the same sentiment, and urged the propriety of deciding the question under a sure reliance that the Senate would pursue the same line of conduct, and the practice would be established at once.

Mr. CLYMER.—It appeared to him that the decision of the question which now agitated the House was anticipated, at least the former determination ought to have considerable influence on the present vote. If all business was to commence *de novo*, why did the House appoint a committee to examine and bring forward the unfinished business of the last session? Either the House did not conceive the business dead, or it acted with some degree of absurdity in the appointment of that committee, because a committee could not be appointed on any business until that business was revived by motion, or a new application.

Mr. PARTRIDGE thought with the gentleman last up, that the business of last session was still before the House, and he was confirmed in this sentiment by several votes taken at their former meeting, by which the business then under consideration had been expressly postponed till the present session. The Senate had likewise adopted a similar practice, as was announced in their message of the 28th September, in which it is said that the Senate have postponed until the next session of Congress, the consideration of the amendment proposed by this House to the bill for establishing the seat of Government of the United States.

Mr. PAGE requested the gentleman last up to declare what the word session meant in this

JANUARY 12, 1790.]

Answer to the President's Speech.

[H. OF R.]

case; and observed, in reply to the gentleman from Pennsylvania, (Mr. CLYMER,) that if the business was to proceed from the stage in which it was left, there was no necessity of a committee to examine the journal, as it would have gone on as a matter of course.

Mr. SHERMAN was of opinion that the business which was undecided on by either House might proceed, but that which had passed one branch, and laid before the other for concurrence, ought to be taken up *de novo*. He said this idea made it perfectly consistent to appoint a committee to report the unfinished business.

Mr. BOURNOR thought a uniform rule ought to be established between the two Houses.

Mr. SMITH, (of South Carolina,) said it was a very important question, as it related to the present circumstances of Congress. It is very important as a precedent, and would be of peculiar importance to the distant States at all times hereafter. If it is determined that the House may proceed to finish business left incomplete at their last session, it might be destructive of that harmony which he wished to be ever preserved. The members from the States near to the seat of Government might assemble early in the session, and carry measures through with the bare majority of a very thin House, inimical to the public welfare. He thought these solid reasons for commencing all business anew.

Mr. LAWRENCE thought the word session implied that all the proceedings of the Legislature were to cease at its expiration, and to commence anew after the recess, whether the body consisted of the same members or otherwise, and did not doubt but both Houses would concur in this opinion.

Mr. WHITE did not think the House ought to appoint a committee to confer with a committee of the Senate, because its object was to guard against an inconvenience that might never occur. Perhaps if this House decides that business shall commence *de novo*, the Senate may do the same, and there will be no occasion for a consultation; but if they differ, it will be time enough to appoint a committee of conference.

The reason why the practice in Pennsylvania differed from that of the British Parliament might be on account of a constitutional difference in the mode of considering bills. By the constitution, the Assembly of Pennsylvania is obliged to submit all its bills to the people for their consideration, who are intended to act, in some degree, as another House, and check the decisions of a Legislative body consisting of a single branch.

Mr. LIVERMORE hoped the opinion which seemed generally to prevail in this House, might be adopted by the Senate, and then he had no doubt but the practice of both branches of the Legislature would be uniform; but he still was inclined to think it would be better to settle it in a joint committee.

The question was, by consent, taken on Mr. Livermore's motion, and that being lost,

Mr. SMITH, (of South Carolina,) moved that a committee of ten, to consist of a member from each State, be appointed to prepare and bring in a bill for the actual enumeration of the inhabitants of the United States.

On the question, this motion was carried in the affirmative without a division: when the following gentlemen were elected a committee by ballot:

Messrs. Foster, Goodhue, Lawrence, Schureman, Sherman, Clymer, Seney, White, Smith, (of South Carolina,) and Baldwin.

A message from the President of the United States, by Mr. T. Lear, was received, with the following communication:

UNITED STATES, January 14, 1790.

Gentlemen of the House of Representatives:

I have directed Mr. Lear, my private Secretary to lay before you a copy of the adoption and ratification of the constitution of the United States by the State of North Carolina, together with the copy of a letter from his Excellency Samuel Johnston, President of the Convention of said State, to the President of the United States.

The original of the papers which are herewith transmitted to you will be lodged in the office of the Secretary of State.

GEO. WASHINGTON.

The message and accompanying papers being read; the House adjourned.

TUESDAY, January 12.

ANSWER TO THE PRESIDENT'S SPEECH.

Agreeably to the order of the day the House resolved itself into a Committee of the whole on the address in answer to the President's Speech to both Houses.

Mr. BALDWIN being placed in the chair, the address was read as follows:

The Address of the House of Representatives to the President of the United States.

The Representatives of the people of the United States have taken into consideration your speech to both Houses of Congress at the opening of the present session.

We reciprocate your congratulations on the accession of North Carolina; an event which, while it is a testimony of the increasing good-will towards the Government of the Union, cannot fail to give additional dignity and strength to the American Republic, already rising in the estimation of the world in national character and respectability.

The information that our measures of the last session have not proved dissatisfactory to our constituents, affords us much encouragement at this juncture, when we are resuming the arduous task of legislating for so extensive an empire.

Nothing can be more gratifying to the representatives of a free people than the reflection, that their labors are rewarded by the approbation of their fellow-citizens. Under this impression, we shall make every exertion to realize their expectations, and to secure to them those blessings which Providence has placed within their reach. Still prompted by the same desire to promote their interests which then actuated us, we shall, in the present session, diligent-

ly and anxiously pursue those measures which shall appear to us conducive to that end.

We concur with you in the sentiment that agriculture, commerce, and manufactures, are entitled to legislative protection, and that the promotion of science and literature will contribute to the security of a free Government; in the progress of our deliberations, we shall not lose sight of objects so worthy of our regard.

The various and weighty matters which you have judged necessary to recommend to our attention, appear to us essential to the tranquility and welfare of the Union, and claim our early and most serious consideration. We shall proceed, without delay, to bestow on them that calm discussion which their importance requires.

We regret that the pacific arrangements pursued with regard to certain hostile tribes of Indians, have not been attended with that success which we had reason to expect from them; we shall not hesitate to concur in such further measures as may best obviate any ill effects which might be apprehended from the failure of those negotiations.

Your approbation of the vote of this House at the last session, respecting the provision for the public creditors, is very acceptable to us: the proper mode of carrying that resolution into effect, being a subject in which the future character and happiness of these States are deeply involved, will be among the first to claim our attention.

The prosperity of the United States is the primary object of all our deliberations, and we cherish the reflection, that every measure which we may adopt for its advancement, will not only receive your cheerful concurrence, but will at the same time derive from your co-operation additional efficacy in ensuring to our fellow-citizens the blessings of a free, efficient, and equal Government.

FRED'K A. MUELENBERG,

Speaker of the House of Representatives.

Mr. BODINOT moved to strike out at the beginning of the third paragraph "the information," because the House were possessed of this knowledge by other means: they had, during the recess of Congress, an opportunity of consulting their constituents, and could therefore say of their own motion, that the measures of the last session have not proved dissatisfactory.

Mr. CLYMER, as one of the committee appointed to prepare a report, had agreed to the address, but he did not think himself precluded from agreeing to what he supposed would be an amendment. The words appeared to him necessary, as they were strongly implied, inasmuch as the address was in answer to the speech of the President, which really contained such information.

Mr. SMITH, (of South Carolina,) contended, that the House had no information with respect to the satisfaction their constituents experienced in the measures of the last session, except what was contained in the President's speech. He did not presume to deny, but every individual member of Congress might have received information of this nature in private conversation with the people, but no official communication could possibly be got at; it was therefore necessary to recognise, in the address, the quarter

from whence they drew that information; in this view he considered the words necessary, and hoped they would be retained.

Mr. BODINOT meant to avoid the idea that it was from the Executive alone they drew this information, when it was a notorious fact, perceptible to common observation.

Mr. LAWRENCE said, the Executive was the proper source to draw such information from, and he was very happy to learn it from so respectable a quarter; he therefore hoped it would be permitted to remain in the report.

The question was now taken for striking out the words, and it passed in the negative.

It was then moved to strike out, in the first line of the fourth paragraph, the word "gratifying" and insert "grateful."

Mr. WADSWORTH did not mean to call in question the right of gentlemen to amend the address in what manner they thought proper, but he would just remark, that the composition of two or three gentlemen, done with deliberation and coolness, generally had more elegance and pertinency, than the patchwork of a large assembly. He should therefore vote against every alteration that went to nothing more than to change the style; if gentlemen were disposed to contend for principle, he should listen to them with attention, and decide according to the best of his judgment, but he really conceived it to be a waste of time to discuss the propriety of two such terms as grateful and gratifying.

Mr. PAGE hoped that gentlemen would proceed to amend the address in such a way as to give it the highest degree of perfection. He would rather have his feelings hurt, provided they could be said to be hurt by changing the language of his most favorite production, than that an address should go from this body with any incorrectness whatever. He hoped the House would always criticise upon, strike out and amend, whatever matter was before them with boldness and freedom. And he would observe to gentlemen, that the most refined and accurate writers were never ashamed to have it said of them, that they blotted out.

Mr. WHITE said, that every gentleman had an undoubted right to take the sense of the House upon an amendment, and that it ought not to be considered as a reflection upon those who drew up the address.

Mr. WADSWORTH did not pretend to be a critic, but thought he understood the meaning of the words gratifying and grateful, and he conceived the difference to be too trifling to engage the attention of the House. He hoped that he had been as modest as a man could be in his observations, and was sorry to have drawn his worthy friend from Virginia into any severities.

Mr. THATCHER apprehended the meaning of these two words to be the same, and the reception of either was only important as it related to the measure or harmony of the period. Now those gentlemen who are qualified to decide this point, might vote for the substitute; but for

JANUARY 15, 1790.]

Unfinished Business.

[H. OF R.]

his part he was very well satisfied with it as it stood.

Mr. STURGES wished the sentence struck out altogether, because he did not conceive the assertion to be true; for he did believe that there was something which could and ought to be more gratifying to the representatives of a free people than the reflection that their labors are rewarded by the approbation of their fellow-citizens; to be sure it was a grateful reflection, but there was one much more so, which was, that their labors had tended to advance the real interests of the people. If it is, as it ought to be, our highest ambition to promote the general interest, it must be most gratifying to us to learn that we have attained that desirable end.

Mr. PAGE had only heard some expressions from the gentleman from Connecticut (Mr. Wadsworth) which he imagined had a tendency to discourage the House from making necessary alterations; but he was convinced, from the known candor and impartiality of that gentleman, that he must not have fully comprehended his intentions, and therefore begged to apologize to him for any thing he might have said partaking of severity.

The question was now put for striking out "gratifying" and inserting "grateful," and passed in the negative.

The committee then agreed to the report, rose, and the Chairman reported it without amendment.

Mr. Speaker being seated in the chair, the address was read again and unanimously agreed to by the House.

It was then moved that a committee be appointed to wait on the President of the United States, to learn from him at what time, and in what place he would receive this address. Messrs. SMITH, (of South Carolina,) CLYMER, and LAWRENCE, were appointed the committee on this occasion.

A message from the President of the United States, by H. KNOX, Secretary at War, was received, in which the President informed the House, that he had made to them an unreserved but confidential communication of the situation of the Southern and Western frontiers, and Indian Department: immediately after this letter was read, on motion, the galleries were cleared.

WEDNESDAY, January 13.

BENJAMIN HUNTINGTON, from Connecticut; LAMBERT CADWALADER, from New-Jersey; DANIEL HEISTER, from Pennsylvania, and WILLIAM SMITH, from Maryland, appeared and took their seats.

On motion of Mr. LEE, it was ordered,

That so much of the standing rules of this House, as directs the mode of appointing committees, be rescinded; and that hereafter it be a standing rule of the House, that all committees shall be appointed by the Speaker, unless otherwise specially directed by the House, in which case they shall be appointed by ballot, and if, upon such ballot, the number required

shall not be elected by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail; and in case a greater number than are required to compose or complete the committee shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

Mr. SMITH, (of South Carolina,) reported that the President would be ready to receive their address to-morrow at 12 o'clock.

The House resumed the reading of the statement of the south-western frontiers, and of the Indian department, as referred to in the President's message of yesterday; whereupon, ordered, that the said message and statement be referred to a committee of five, and that Messrs. WADSWORTH, BROWN, BOUDINOT, BURKE, and BALDWIN, be the said committee.

THURSDAY, January 14.

THEODORE SEDGWICK, from Massachusetts, and THOMAS HARTLEY, from Pennsylvania, appeared and took their seats.

On motion, Messrs. LIVERMORE, AMES, LAWRENCE, SCOTT, and SMITH were added to the committee appointed yesterday on the affairs of the Indian Department.

The House then went and presented the address to the President, to which the President was pleased to make the following reply:

Gentlemen:

I receive, with pleasure, the assurances you give me, that you will diligently and anxiously pursue such measures as shall appear to you conducive to the interests of your constituents; and that an early and serious consideration will be given to the various and weighty matters recommended by me to your attention.

I have full confidence that your deliberations will continue to be directed by an enlightened and virtuous zeal for the happiness of our country.

GEO. WASHINGTON.

The report of the Secretary of the Treasury made in pursuance of a resolution of the House of Representatives of the 21st of September last, with a plan for the support of the Public Credit, a copy of which will be found in the Appendix to this volume.

On motion, it was ordered that the consideration of the foregoing report be the order of the day for this day fortnight, and that it be printed in the interim for the use of the members.

FRIDAY, January 15.

JAMES JACKSON, from Georgia, appeared and took his seat.

The Secretary of War made a report on the petition of James Gibbon, Archibald M'Allister, Dudley Tyler, John Hurst, Henry Malcomb, Peter Bennet, Charles Markley, Alexander Power, and John M'Garrah, which being read, were ordered, with the petitions themselves, to lie on the table.

UNFINISHED BUSINESS.

Mr. HARTLEY said, that as there was much important business before the House last session which had been left incomplete, it was in-

H. OF R.]

President's Speech referred.

[JANUARY 15, 1790.]

cumbent upon them to fix some rule founded in justice, not only as a direction for the House through this session, but for a guide to succeeding ones, in what manner the business postponed from one session to another should be conducted. He was told that the subject had been already agitated, but he was led to believe, from an examination of the Journal, that it was not yet decided; but as it was of importance that it should be so, he intended, before he sat down, to offer a motion that would bring it immediately before them. He would preface it with an observation in reply to what he understood had been advanced, "that a constitutional adjournment of both Houses was in effect the same as a prorogation." He knew very well that a prorogation or dissolution of the Parliament of Britain destroyed all unfinished business; and that nothing was resumed at a subsequent meeting until the session was opened by the King. But an adjournment of Congress, whether for a greater or less time, left the business to be resumed precisely in the same state it stood at such adjournment. He wished to determine this point absolutely, and that it might not be done with surprise or in an indirect way, he would move to take up the bill to promote the progress of science and useful arts, by securing to authors and inventors the exclusive right to their respective writings and discoveries, which stood postponed by the express order of the House from the last to the present session. This bill, he observed, was solicited by some very ingenious men, to secure to them their writings and inventions; it had been early ordered in last sessions, and was intended to have passed, but the multiplicity of other important business had caused it to be postponed, as he had just related. Gentlemen might remember that a committee was appointed to report the business it was necessary to finish before the recess; they might also remember how desirous gentlemen were of having a recess; but if it had been considered that such a measure was to destroy all the labor of the House which had not brought its object to maturity, it would have been an insuperable objection against any adjournment whatever. He considered a vote that should annihilate all they had hitherto done as a great piece of injustice to the public, who entertained a hope that considerable progress was made in the legislative business left incomplete at the last session, and was on the part of the House creating unnecessary trouble and expense; he saw no propriety in renewing subjects which had been well discussed, and the principles of which were well understood, unless gentlemen were desirous of travelling over the ground again in order to show a nearer route to bring them to their journey's end.

He was ready to show that it was in the power of the House to establish the rule he meant to contend for, and that this rule was the one most likely to promote the public good in giving a necessary despatch to public measures.

Mr. WHITE wished the motion to lie on the table for consideration, but he was somewhat deceived in it, because the gentleman had intimated a desire to establish an absolute rule. Now, deciding this question would leave the subject still afloat, because he might be in favor of proceeding in one bill that was brought forward by motion, and against taking up another.

Mr. HARTLEY.—If the House determine to take up this bill, I apprehend the principle will be established that is to direct our future proceedings. If all business is dismissed by the last adjournment, it will be improper to adopt my motion; but I hope gentlemen will not endeavor to prevent its being fairly discussed and decided by introducing an indirect question.

Mr. BOUDINOT thought the question would not establish an uniform rule, because it was confined to a single object which depended in, a great measure, on its own merits.

Mr. SEDGWICK said, it was in the power of any gentleman to bring forward business by motion; but in such case the principle contended for would remain untouched. A member might move and carry a question for taking up any paper on the files of the House, but still the point respecting the general termination of the business at the last session would be undetermined. He thought if gentlemen were disposed to bring the matter to issue, they ought to move a general proposition, such as that the House proceed with the business of the late session from the State in which it was then left; though he would not say but, on reflection, he should be against such a motion.

Mr. PAGE said it was impossible, from the nature of Parliamentary proceedings, that the business of a former session could be resumed and proceeded in, as if no interval had taken place; and he contended that the effect of a prorogation and adjournment of a session was the same.

The motion, by consent, was ordered to lie on the table.

PRESIDENT'S SPEECH.

The House then resolved itself into a Committee of the whole on the state of the Union; Mr. BALDWIN in the chair. After some time, the committee rose and reported to the House the following resolution:

Resolved, That it is the opinion of this committee that the several matters recommended by the President of the United States in his speech to both Houses of Congress, relating to a provision for the national defence; to the promotion of manufactures for essential, particularly military supplies; to a compensation to the persons employed in the intercourse between the United States and Foreign nations; to the establishing an uniform rule of naturalization; to the establishment of uniformity in the currency, weights, and measures; to the advancement of the agriculture, commerce and manufactures of the United States; to the encouragement of useful inventions; to the establishment of Post-offices and post-roads; and to the promotion of science and litera-

JANUARY 15, 1790.]

President's Speech referred.

[H. OF R.]

ture; ought severally to be referred to select committees to be appointed by the House, to prepare and bring in a bill or bills, providing for each particular purpose."

The said resolution being again read,

Ordered, That a committee be appointed to prepare and bring in a bill or bills providing for the national defence; and that Mr. GILMAN, Mr. PETER MUHLENBERG, Mr. HEISTER, Mr. MATHEWS, and Mr. FLOYD, be of the said committee.

Ordered, That a committee be appointed to prepare and bring in a bill or bills for making compensation to persons employed in the intercourse between the United States and Foreign nations; and that Mr. SEDGWICK, Mr. HUNTINGTON, and Mr. LEE, be of the said committee.

Ordered, That a committee be appointed to prepare and bring in a bill or bills for establishing a uniform rule of naturalization, and that Mr. HARTLEY, Mr. TUCKER, and Mr. MOORE be of the said committee.

Ordered, That it be referred to the Secretary of the Treasury to prepare and report to this House, a proper plan or plans, conformably to the recommendation of the President of the United States, in his speech to both Houses of Congress, for the encouragement and promotion of such manufactures as will tend to render the United States independent of other nations for essential, particularly for military supplies.

Ordered, That it be referred to the Secretary of State to prepare and report to this House in like manner, a proper plan or plans for establishing uniformity in the currency, weights, and measures, of the United States.

On motion of Mr. GOODHUE,

Ordered, That a committee be appointed to prepare and bring in a bill or bills to make such alteration in the laws of the United States as are necessary to conform the same to the present circumstances of the State of North Carolina; and that Mr. BENSON, Mr. TRUMBULL, and Mr. CADWALADER, do prepare and bring in the same.

Mr. HARTLEY moved an adjournment, when

Mr. PAGE rose and said, he wished to call the attention of the House, before they adjourned, to a subject which he thought of importance, and which ought no longer to be in the undecided state it had been in since the last session; it was this, whether the persons who had taken down and published the debates of the House, by the tacit consent of the members during the last session, and who had withdrawn from the seats they then held in the House, to the gallery, during this session, might not return to the same seats. He supposed that they had modestly withdrawn, on the supposition that the debate which took place just before the adjournment, showed that the sense of the members was against their sitting in the House; but the contrary was the case; that he knew their publications had given great satisfaction to many of the constituents of that House; that the House was applauded for its

conduct on that occasion, both at home and abroad, and had been highly commended for it in some British publications; that he was anxious that the short-hand writers should resume their seats in the House, lest it might be insinuated by the jealous enemies of our Government, that the House of Representatives were more republican and indulgent the last session than this; that removing those writers to the gallery, was but a step towards removing them from the House, and that this suspicion would be increased by circumstances which, however innocent, nay proper in themselves, might be misunderstood and excite uneasiness. The doors of the gallery had been two days shut, the House had made a parade through the streets, and had displayed their eagle in their hall; that these circumstances, if followed by the exclusion of the short-hand writers, might spread an alarm which ought to be avoided; he therefore hoped that those gentlemen who had retired to the gallery might be informed that they might return to the seats they occupied in the last session—that he avoided making a regular motion to this effect, because he knew that some worthy members who wished to admit those writers, or any others, did not think their admission ought to be sanctioned by vote, and appear on the journals, lest that might sanction and authenticate erroneous publications; but that if he should not discover that the sense of the members present was in favor of the ideas he had expressed, that to-morrow he would bring forward a motion made by a member from South Carolina, (Mr. TUCKER) last session, for that purpose, for he had no fears that a vote of the House to authorize the admission of such writers, would make the House answerable for their publications.

Mr. HARTLEY withdrew his motion for adjournment, in order that the subject alluded to by the gentleman from Virginia (Mr. PAGE) might be understood.

Mr. WHITE said, he felt averse to enter into a positive resolution for the admission of any person to take down the debates, but wished them permitted to a convenient seat within the bar for the purpose of hearing with greater accuracy. But he feared that a vote of the House would give a sanction to the details, which the publications ought not to have. Not that he thought them worse than similar publications in other countries, on the contrary, he thought them better, if he judged from what had fallen under his particular observation, and what he recollected to have from others. He did not wish a positive motion for the admission of short-hand writers, because gentlemen might object to a vote of the kind, and he should be very loath to discourage publications of the advantages of which he was well convinced; he knew they had given great satisfaction to the people of America, and it was a satisfaction of which he would not deprive them. Although these publications had not given an exact and accurate detail of all that passed in Congress,

H. of R.]

On Foreign Intercourse.

[JANUARY 19, 1790.]

yet their information had been pretty full, and he believed the errors not very many; those that were made, he supposed to arise rather from haste or inadvertence, than from design. He was convinced of this, from the disposition the publishers had manifested to correct any errors that were pointed out, and the pains they sometimes took to ask gentlemen what were their particular expressions, when they either did not hear distinctly, or did not comprehend the speaker's meaning. He wished, therefore, the business might go on; but silently, as it had heretofore done, without the express approbation of the House. He was fully convinced, that neither the editor of the Register, nor any other man, but the members of the House, had a right to a seat within those walls, without the consent of every member; but he thought this consent would be tacitly given if no gentleman opposed their introduction, and in this way he most heartily concurred with his colleague in agreeing to the admission of such persons as thought themselves qualified, and were inclined to take down and publish their debates and proceedings; he should be glad to see them in the seats they had last session, but he should object to the vote being entered on the journals of the House.

Mr. BOUDINOT thought the mode proper to be pursued on this occasion, would be to give a discretionary power to the Speaker to admit such persons as he thought proper. Under such a regulation, short-hand writers might be admitted, without giving to their publications any degree of legislative authority.

Mr. THATCHER hoped that it was not the intention of gentlemen to confine the business to one person only, because others might appear of equal capacity; and equally deserving of encouragement.

Mr. PAGE said, he did not wish to confine the vote to any two or three writers, he cared not how many were admitted. It ought to be remembered, that he said, when this subject was before the House at the last session, that he saw no reason why Mr. FENNO should not be within the house as well as Mr. LLOYD, instead of being in the gallery. He had no objection to admitting any number of short-hand writers, provided they did not incommode the members.

Mr. SMITH, (of South Carolina).—I do not wish, Mr. Speaker, to exclude others from a convenient seat; but at the same time, I think those who were here before, have a pre-emption right to the best. I assure you, sir, I am sorry for the loss of them off the floor, because I think their publications had a salutary tendency. It has been said, that it was the design of the short-hand writers to give a partial representation of our proceedings. I believe, if they are not correctly given, it is owing to the hurry in which business of this kind is conducted, and I am confirmed in this opinion, by some errors which I have discovered in the publication of our proceedings. It was said that a committee was appointed to bring in a bill for the preservation and

safe-keeping of the *accounts* of the United States. I thought within myself that we were not so tenacious on this head, therefore suspected some mistake, and on consulting the journals I found that a committee had been appointed to bring in a bill for the safe-keeping and preservation of the *acts* of the United States: The similarity of the letters in these two words, and the great abridgment short-hand writers are obliged to make for the sake of expedition, may have caused him to substitute the one for the other; in another place, I found a greater blunder still: it was said, that the House had appointed a committee for the regulation of the *barbers* of the United States; this struck me as a very gross misrepresentation, for I could hardly believe, that the Legislature of the Union, would, at so early a day, attempt to usurp an authority not vested in them by the Constitution, and that, too, over a body of men, who could at any time put an end to the tyranny with the edge of the razor; but on searching the minutes in this case, I found that a bill was brought in for the regulation of the *harbors* of the United States. Upon the whole, I believe, inaccurate as this work is, it has given to our constituents great satisfaction, and I should be glad to see our *Argus* restored to his former situation behind the Speaker's chair, from whence he could both see and hear distinctly every thing that passed in the House.

MONDAY, January 18.

THOMAS SINNICKSON, from New Jersey, and MICHAEL JENIFER STONE, from Maryland, appeared and took their seats.

A petition of Hannibal W. Dobbins, of the kingdom of Ireland, praying that Congress may grant him a tract of land upon such reasonable terms as may encourage him to bring settlers to the country, was read and referred to Messrs. PAGE, SCOTT, and PARTRIDGE.

The Speaker laid before the House a letter from the Treasurer of the State of New York, together, with a copy of the revised laws of the said State, sent in pursuance of concurrent resolutions of the Senate and Assembly thereof, for the use of the House.

Mr. FOSTER, from the committee appointed, presented, according to order, a bill, providing for the actual enumeration of the inhabitants of the United States, was read the first time.

TUESDAY, January 19.

The bill for enumerating the inhabitants of the United States was read a second time, and ordered to be committed to a Committee of the whole.

ON FOREIGN INTERCOURSE.

Mr. SEDGWICK, from the committee to whom was referred that part of the President's Speech relative to making provision for persons employed in the intercourse between the United States and foreign nations, had some doubts on their mind respecting the extent of such pro-

JANUARY 19, 1790.]

On Foreign Intercourse.

[H. OF R.]

vision, or rather respecting the construction of the words of the resolution under which they were appointed; they doubt if a strict construction would authorize them to report a bill making a general provision for every grade of foreign ministers, or whether, on the contrary, they are not tied down to provide for those only who are now in existence. He had been desired by the committee to suggest this doubt, and request the instruction of the House.

Mr. SMITH, (of South Carolina,) said he wished to refer to the President's speech in order to ascertain what was the intention of the House in appointing this committee; because the President's speech was the ground on which they proceeded to act.

The President's speech being read, together with the resolutions of the House founded thereon,

Mr. SEDGWICK said it was clear, from the President's message, what were his intentions; but the words of the resolution appointing a committee, obscured, in some degree, the intentions of the House; it is there said that the committee should bring in a bill for making compensation to persons employed, which seemed to confine the deliberations of the committee to that particular object.

He did not know but this provision was intended immediately to be made by the House, and the other part, which related to those hereafter to be employed in the intercourse between the United States and foreign nations, left until information could be obtained from the Secretary of State; he did not see any inconvenience that would attend leaving the business altogether undecided until his arrival, which he expected might be soon, provided the gentleman accepted his appointment. He supposed the Secretary of State had paid more attention, and possessed more information on this subject, than the committee had it in their power to do, or obtain. He wished it therefore left unacted upon until the Secretary should be ready to report to the House, provided the business of the nation did not suffer by the delay, but this was a point he would not pretend to determine; it might be necessary, for all he knew, that the United States should be represented in some of the Courts of Europe, where they are not at present represented.

Mr. PAGE moved that the committee be discharged from the further consideration of the subject, in order that it might be brought forward and determined upon in a committee of the whole. He thought this the most likely way to obtain the sense of the House on the plan which should be pursued, and whether it was proper to make a general regulation providing for the several grades in the diplomatic corps that may hereafter be employed, as well as those already in the service of the Union.

Mr. LEE was sensible that the resolution of the House appointing a committee, was intended to be founded on the President's speech, and he supposed that the President had selected

this object for the consideration of the House; because he had not the means of sending persons to foreign courts, which the interests of the United States may require. It seemed therefore to look as a general regulation of the different grades of officers which are employed in the business of embassy; but this latitude was curtailed by the expressions of the House. He hoped, therefore, that the House would instruct the committee whether they should make such general regulations as they deemed necessary, or be confined to making provision for persons already appointed.

Mr. WHITE was in favor of a general provision; because it might be found necessary to send ambassadors extraordinary to foreign nations, and an adequate provision for their support ought to be made, and known by such officers at the time they accepted their appointment, otherwise the President might be considerably embarrassed, whenever he intended to employ them.

Mr. JACKSON remarked, that there was no compensation for the foreign ministers provided by the laws in the last session; yet it was as necessary that their salaries should be known, as that of any other officer in the Government; but he thought, before the committee proceeded in the business, that an arrangement should be made of the officers necessary to be employed at foreign courts; after it was ascertained what grade of officers should be employed at the court of Britain, the court of France, and so on, the committee might report a provision conformable to such an arrangement; he would not say, however, that it might not be proper to refer the subject to the Secretary of State, so far as to learn what places it would be proper to send ministers to. He confessed that it was his opinion the committee was in the dark on this point.

Mr. SEDGWICK said, that the honorable gentleman from Virginia (Mr. PAGE) had made a motion, if he understood him right, it met his ideas, and he would second it; for he verily believed that, under the present circumstances, it would be the most eligible course to discharge the committee, and wait the arrival of the Secretary of State, to get fuller information.

Mr. SMITH, (of South Carolina,) could not see why the committee ought to be discharged, if they were competent to bring in a bill, and this he supposed they were without waiting the arrival of the Secretary of State. The arrangement which some gentlemen talked of, lay with the President and Senate. It is they who are to determine when and where to send ambassadors and other public ministers; all that the House has to do is to make provision for their support. The question then is, not whether any should be appointed, because it does not lie with the House to determine. To be sure, if they were of opinion that all intercourse with foreign nations should be cut off, they might decline to make provision for them; but he did not believe this was the intention of

any gentleman. Perhaps gentlemen may think it questionable whether the President can send them, unless they are previously established by law; but for his part he thought it was a business clearly within the Executive branch, and with which the Legislature had nothing to do, but to provide for the payment of their salaries and expenses; and this, if it was properly considered, was a competent check. If the House at any time neglected to provide for such officers, the President must either recall them or pay them out of his private purse. From this view of the subject, he could not see any good reason why the committee should not pursue the business; they could make a general regulation, containing a provision for ambassadors, ministers, residents, and *chargés des affaires*, leaving to the President and Senate to judge which of those they would employ on any occasion where they thought them necessary. He conceived it improper to refer this part of the business to the Secretary of State, when the constitution placed it expressly in other hands.

Mr. SHERMAN was inclined to think that the Legislature ought to determine how many ministers should be employed abroad; nor did he think it would be any abridgment of the Executive power so to do.

Mr. PAGE wished the committee might be discharged, in order to settle the principles on which the House was to act. He conceived it to be the most expeditious way of doing business, to settle the principles first, and then put it into the hands of a select committee, to draught a bill conformably thereto. He thought if they proceeded in this manner, that the Secretary of State might be here in time to give them what information gentlemen seemed to want.

Mr. WHITE said, it had never been a question in his mind whether the President and Secretary had a right to appoint such foreign ministers as they thought proper; the power was expressly given to them by the constitution, and was consequently placed without the jurisdiction of this House. If the contrary doctrine was established, that the President could send no foreign minister but what he was authorized by law to send, the most inconvenient consequences might result. The exigencies that required such an appointment might be over before the Legislature convened for the purpose of authorizing him to make it.

Mr. JACKSON granted that exigencies might arise, where it would be necessary for the preservation of the public tranquillity, that the President should enter into a negotiation with a foreign State; but he would ask the gentleman how it was possible for the President to establish the salaries of such negotiators as he thought it expedient to employ, without the consent of Congress? Or do gentlemen mean to give the same sum to the ministers who may be employed at the petty courts up the Mediterranean, as to those sent to the principal and most important nations of Europe? Would they give a resident at Genoa as much as a mi-

nister at Paris or Madrid? This can neither be the meaning nor intention of gentlemen. Then I appeal to them, whether it is not absolutely necessary for a proper arrangement to be made before we proceed in the business? After the arrangement is made, the committee will find every thing clear and easy to determine.

The President would find it a tender point to establish the salary of a foreign minister, if any thing discretionary is left in his power on this head. I therefore think, in order to avoid embarrassments, both with respect to him and the gentleman who shall be employed to go abroad, that the Legislature should make some express provision for every circumstance that may arise, at least as far as we can decide upon the best attainable information. Perhaps it would be proper to wait the arrival of the Secretary of State, in order to get that light thrown on the subject which it requires. For these reasons, I should favor the motion made by the honorable gentleman from Virginia, for discharging the committee.

Mr. LEE did not conceive it necessary to contemplate the question which had now been drawn into view. He believed all that was before the House was suggested by the gentleman from Massachusetts, which was, that the committee had doubts on their minds relative to the provision to be made for existing officers, employed in the intercourse between the United States and foreign nations, and those that might hereafter be employed in such intercourse. He had the honor of being of the committee, but he confessed that he had not much hesitation in determining for himself what was the proper duty of the committee. He thought that the President's speech, upon which the whole business seemed to be grounded, authorized them to take up the subject generally. He conceived the proper question before the House to be, whether they would give instructions to the committee on this point; and in order that it might be decided with precision, he would move that it be an instruction to that committee, to include in such provision as they shall make for the persons to be employed in the intercourse between the United States and foreign nations, a compensation to persons who may hereafter be employed in such intercourse. When the committee had proceeded on that instruction, and brought in their provision accordingly, the whole subject would be before the House, and then might be the proper time to discuss the question brought forward by the gentleman from Georgia.

Mr. PAGE wished to take the sense of the House first on discharging the committee.

Whereupon, the question for discharging the committee was put and lost.

Mr. PARTRIDGE asked whether it was in contemplation to report, under the instruction moved for, a bill for compensating all the grades of the diplomatic corps? If it was, he would suggest a circumstance that had taken place under the late Congress, which was, that

JANUARY 20, 1790.]

Report of the Secretary of the Treasury.

[H. OF R.]

no person above the grade of a Minister Plenipotentiary, should be employed in negotiating with foreign nations. Whether this resolution was now in force or not, he would not pretend to determine; but he presumed the House were not now prepared to enter on the establishment of a corps of ambassadors, ministers, envoys, and *chargés des affaires*.

Mr. BOUDINOT thought it would be best to make the report full and complete; and, as the House were not bound by the opinion of the committee, they might then make such alterations as they thought proper.

On the question, the motion made by Mr. LEE for instructing the committee was carried in the affirmative.

Mr. PAGE, from the committee to whom was referred the petition from Hannibal William Dobbyn, made a report.

REPORT FROM THE SECRETARY OF THE TREASURY.

The Secretary of the Treasury reported on the petition of Christopher Saddler as follows:

TREASURY DEPARTMENT, January 19, 1790.

In obedience to the order of the House of Representatives of the 11th instant, referring to the Secretary of the Treasury the petition of Christopher Saddler, the said Secretary most respectfully reports:

That, except the letter from the Collector of the district of Boston and Charlestown, accompanying the petition, there is no evidence immediately within reach respecting the ground of the application for relief.

That, though that letter is entirely satisfactory to the mind of the Secretary, the affair is of a nature to entitle the petitioner to relief; yet he does not consider it such a document, as, in point of precedent, would justify the interposition of the Legislature to grant it. The Secretary will therefore take measures for a more regular authentication of the nature of the transaction, and will submit the result. To this there is the further inducement of its being necessary to ascertain whether the persons who may be interested in the forfeiture, are disposed to relinquish their right.

The Secretary, however, begs leave to avail himself of the occasion, to represent to the House, that there are other instances which have come under his notice, in which considerable forfeitures have been incurred, manifestly through inadvertence and want of information: circumstances which cannot fail to attend the recent promulgation of laws of such a nature, and seem to indicate the necessity, in conformity to the usual policy of commercial nations, of vesting somewhere a discretionary power of granting relief.

That necessity, though peculiarly great in the early stages of new regulations, does not cease to operate throughout the progress of them. There occasionally occur accidents from which heavy and ruinous forfeitures ensue, that require the constant existence of some power capable of affording relief. The proper investment of such a power is a matter of too much delicacy and importance to be determined otherwise than upon mature deliberation. Yet the Secretary begs leave to submit to the considera-

tion of the House, whether a temporary arrangement might not be made with expedition and safety, which would avoid the inconvenience of a Legislative decision on particular applications. All which is humbly submitted.

ALEX. HAMILTON,
Secretary of the Treasury.

Mr. SMITH thought it would be proper to refer this report to a select committee, as there appeared to be a pointed necessity for extending relief in this and similar cases.

Mr. BOUDINOT seconded the motion.

Mr. STONE wished the business could come before them in some other way; he thought it would be improper to take it up in its present form.

Mr. BOUDINOT suspected, as the gentleman was not here when the petition of Christopher Saddler came first before the House, that he might not know what was the state of the business: he therefore related that the petition had been presented, read, and referred to the Secretary, who had now reported thereon.

Mr. STONE acknowledged he was not present when the petition was brought forward; but he knew that the business had been conducted in the manner stated by the gentleman from New Jersey, because the Secretary made mention of it in the report; but he thought it was not referred to him to report on the necessity of establishing a commission for the final determination on applications of this kind.

Mr. SMITH did not see any impropriety in conducting the business in this way; but if the gentleman would propose any other mode of proceeding in the business, he was ready to acquiesce.

On the question for referring the report to a select committee, it passed in the affirmative; and the following gentlemen were appointed a committee accordingly, viz. Messrs. AMES, STURGIS, STONE, GRIFFIN, and WYNKOOP.

Mr. WADSWORTH made the following motion:

Ordered, That the Secretary of the Treasury be directed to lay before this House such information as he may have obtained respecting any difficulties which may have occurred in the execution of the several laws for the collecting duties on goods, wares and merchandise, and on tonnage, and for regulating the coasting trade, and to report his opinion thereon.

WEDNESDAY, JANUARY 20.

JAMES MADISON and JOSIAH PARKER, from Virginia, appeared and took their seats.

The report on the petition of Hannibal W. Dobbyn was called up for a second reading. It purported that the Secretary of the Treasury ought to be empowered to contract with the said H. W. Dobbyn, for the sale of a tract of land in the Western Country, at a price not less than — per acre, nor less than fifty thousand acres, the whole to be taken up in one tract.

Mr. SCOTT was one of the committee to whom this petition had been referred, and he would

H. OF R.]

Sale of Public Lands.

[JANUARY 20, 1790.]

inform the House that, on inquiring of the gentleman petitioning, he learned that the gentleman wished to purchase a larger quantity of land than would be convenient for him to pay for immediately; he is solicitous, therefore, of permission to purchase such a quantity, and to pay the price by instalments. He is willing to pay one-third down; one-third in seven years, and the remainder in twelve years; together with interest at six per cent. on the two-thirds unpaid, from the time of closing the contract. Now, in order to know if it is possible to let him contract upon these principles, he would move to amend the report to that effect. I will declare, said he, for my own part, that I am in favor of making as many of these contracts as possible; one-third of the purchase money paid down, and a settlement made on the spot, would be good security for the payment of the remainder; nor would this be all, for a contract made upon interest would amount to the extinguishment of so much of the public debt.

Mr. SMITH (of S. C.) thought it would be best to postpone the consideration of the subject for the present. There was a difficulty had struck his mind, and perhaps it might deserve some consideration. The applicant is avowedly an alien; now, by the laws of this country, it is generally understood that aliens cannot hold real estate; they may hold it as trustees, or contrive some means to evade the law; but I conceive it would be a solecism in Government to encourage or countenance the holding of land by such a tenure. It ought also to be considered, that a committee is appointed who will probably report in a short time, the plan of uniform naturalization. Now it would be impossible for the House, at this time, to judge whether an alien, holding lands in America, would be able to conform in all respects to such a law.

Mr. SHERMAN said, he should be glad to be informed whether the petitioner intended coming here to settle.

Mr. SCOTT observed, that the petitioner stated in his petition that he wished to become a citizen of the United States. With respect to the difficulty suggested by the gentleman from South Carolina, he apprehended it might be easily removed by inserting a clause in the bill, requiring, as a condition, that the petitioner shall comply with the laws of the United States in that case; but there was urgent necessity of deciding speedily, inasmuch as the gentleman is waiting for an answer, and could not tarry long to receive it.

Mr. STONE said, that if our lands were now valuable to foreigners, they would be so a month hence, and, therefore, they ought not to hurry on a contract of this nature, nor was it proper, in his opinion, to make a naturalization act to apply to an individual; the law for disposing of the lands ought to be general, that those who comply with the terms might be equally accommodated.

Mr. WHITE thought it of importance that the proposals of foreigners for the purchase of unappropriated lands ought to be attended to, especially of those who intend to become citizens. He looked upon it to be the policy of this country to encourage useful settlers amongst us. If the first applicants are successful, and met with no obstacles, it might induce others to come.

Mr. BOUDINOT observed, that the business of selling lands was of considerable consequence; if it was properly managed, it might be a productive source for the extinguishment of the national debt; but much depended on the manner of setting out. If they went into a desultory mode of selling lands, they might do material injury. He wished a general and systematic plan might be adopted, which should not be receded from. He was, therefore, against the report, as he would be against any partial sale; but as for the amendment, he was pointedly against it. He observed, that there had been large sales already made, on terms known to a great part of the House; the payments for them were not yet made, but he believed they became due upon a contingent operation of Congress. He presumed that the House could not proceed understandingly in the business upon the information now in their possession. He believed it would be necessary before they proceeded, that some Executive officer should take it up in some systematic point of view, contemplating what had already been done, and what ought to take place hereafter. The Secretary of the Treasury appeared to him to be the most proper person. He, therefore, wished to refer the report to him; he might then converse with the gentleman on this particular application, and ascertain what might be most conducive to the general interest of the United States. He thought, however, that they should not undertake to make a sale to foreigners, on better terms, or more to suit their convenience, than was done to the citizens of America. He would, therefore, move to refer the report of the committee to the Secretary of the Treasury.

Mr. SEDGWICK did not see what particular good would result from committing the report to the Secretary of the Treasury; if it had been extended further, it would meet his idea, and perhaps the gentleman might be willing to go with him and extend the motion so as to direct the Secretary to report some general regulation for the distribution of those lands. He thought the Legislature totally incompetent to form contracts with individuals on this subject; it was difficult for so large a body to guard against impositions; besides, it would be a waste of the public time, which could be illy spared from more important subjects. He was decidedly opposed to selling lands, unless the whole of the purchase money was paid down. He would never consent to make individuals debtors to the Union, because it tended to weaken the hands of the Government. If they received but

JANUARY 20, 1790.]

Sale of Public Lands.

[H. OF R.]

one-third of the payment, he should look upon the other two-thirds as relinquished.

Mr. BOUDINOT was willing to accommodate his motion to that proposed by Mr. SEDGWICK.

Mr. PAGE owned that he had his doubts respecting the propriety of entering into a partial sale of the Western Territory; but when he considered the peculiar circumstances of the petitioner, he was induced to believe it proper to make some special provision; if it could be proper on any occasion whatsoever, it was certainly so on this. He had also some doubts with respect to the propriety of giving credit; but he thought they might be obviated by filling up the blank in the report with a large sum. He wished a contract could be entered into with the petitioner, because he feared if the present time was suffered to escape, they would never have another opportunity. He could press this observation further on the House, but the delicacy of the petitioner's situation forbade him; he hoped, therefore, they would agree to the report.

Mr. STONE thought that a land-office ought to be opened where every one could be accommodated. He had no idea of giving preferences or enabling one man to make a better bargain than another. He had no doubt but the lands in the Western Territory would meet a ready sale upon his principles, and he believed there was reason to wish that Congress had never adopted any other; for it was thought there was little or nothing got by the contracts they had already made.

Mr. LEE wished the report to be agreed to, which he conceived it might be with safety. As to the term of credit it might be submitted to the discretion of the House after the blank was filled up; he thought it of great importance to sell and settle the vacant territory; it would add to the strength of the nation, and tend at the same time to extinguish the national debt.

If the House were not disposed to consider the amendment proposed by the gentleman from Pennsylvania, it might be referred to the Secretary of the Treasury, to use his discretion as circumstances should warrant.

Mr. SHERMAN thought the best way to manage this business, was to refer it to the Secretary of the Treasury, as was proposed. He said that the unappropriated land in the Western Territory was a great fund of wealth, and which, if properly disposed of, might extinguish the national debt, and be peopled by a valuable class of citizens; but if, from a mistaken policy, it was thrown away upon foreign adventurers or speculators, the public would get nothing for it, as had been the case heretofore, in the sale of large districts, where the expenses attending the surveys, &c. left very little profit to the United States. It is true, such measures may induce a number of foreigners to come among us; but then it ought to be remembered that such are generally persons of different education, manners, and customs, from the citizens of the Union, and not so likely to harmonize in

a Republican Government, as might be wished; consequently any considerable accession of this class of settlers might tend to disturb the harmony and tranquillity, and embarrass the operations of the Government. He thought it was worthy of inquiry, whether America stood in need of emigrants to people her territory. He supposed the notorious rapid population of the present inhabitants was of itself sufficient for the purpose. It must have struck the observation of every gentleman, that they were daily throwing off vast numbers, and extending the settlements into that country which some gentlemen seemed to think could not be too early cultivated. But, nevertheless, he was willing to let foreigners come in gradually, and in the same way he was inclined to dispose of the lands. He thought it would be most judicious to lay off a district at a time, reserving some lots, which, with the increasing population of the surrounding ones, would increase in value, and ultimately these reserved lots would bring more into the Treasury than the others. He wished the business to go to the Secretary of the Treasury, because he supposed he had the most information respecting it.

Mr. BALDWIN.—If the application of every individual to purchase lands of the United States is to come before this House, we shall, I believe, have no leisure to attend to the more important parts of our duty. I think, Mr. Speaker, it must plainly appear, from the discussion which has now taken place, that we are not a proper body to enter into contracts with individuals. To perform acts of this nature with propriety, we ought to be possessed of the whole train of information on the subject; but it is pretty apparent that we are not fully acquainted with it.

There has been a difficulty suggested, whether, by the common law, which is adopted in the several States, an alien can hold real estate in this country. If the common law excludes aliens from possessing lands in their own right, be it remembered that we have not adopted the common law, and therefore are free from its restraints.

He now called the attention of the House to the practice of the former Congress, showing that they referred similar applications to their Board of Treasury, who contracted for and sold the lands. If it was proper and convenient to give credit, the public did not give a patent for the land; they only gave an acknowledgment that they received so much on account, and an assurance that when the remainder of the purchase money should be paid, a proper and full conveyance of the property would be made on the part of the Government.

From these considerations, he was in favor of referring the business to the Secretary of the Treasury, that he might report a uniform system for the sale of these lands. But to refer the report of a committee of the House to any Executive officer appeared to him informal, and derogatory to their dignity.

H. OF R.]

Unfinished Business.

[JANUARY 20, 1790.]

Mr. PAGE had no objection to refer the subject generally to the Secretary of the Treasury; but he hoped the House would first decide upon the report, and then the petitioner might negotiate with the proper officer, and get his business finished.

The motion for referring the report to the Secretary of the Treasury was put and lost.

Mr. BALDWIN then moved that the report lie on the table, and that the Secretary of the Treasury be directed to report a uniform system for the sale of the vacant lands in the Western Territory.

Mr. LEE pressed the House to take order on the report; from the peculiar circumstances which attended the application, it was necessary to come to some immediate decision on this particular case, and he feared the act which gentlemen contemplated could not be passed upon for a very considerable length of time. If, however, the House would refer the report to the Secretary, he might insert a clause which would accommodate Mr. Dobbins, and be productive of great advantages. He thought it of high importance to encourage emigration into this country from all quarters of the world, but particularly from Europe.

Mr. SEDGWICK.—Whatever might be his opinion of the present application, and however decisions he might be to encourage the sale of the Western Territory, the present experiment had determined him to shut the door against all private applications to this House.

It is said, the person is a foreigner; that he lives at a distance, and must speedily complete his contract. These are reasons why we must contemplate his particular circumstances, and provide for a partial exertion in his favor. If these are arguments sufficient to induce the House to pay him exclusive attention, what would be said on the application of a fellow-citizen? Do gentlemen suppose that a foreigner is entitled to more peculiar regard than such a man? If they do not, we shall be perpetually employed in a menial business, and which we are greatly incompetent to. We shall most assuredly have to extend our sessions for the whole two years of our appointment; and our time and expenses, will, perhaps, cost more than all we shall get by the sale of the land.

Mr. WHITE said, if a general system was now adopted, he should not think of a discrimination in favor of any one; but as that was not in existence, and as the necessity is pressing, he was induced to hope the House would make the special provision mentioned in the report. Indeed, he thought that the success of the present motion would be a negative to the application, and would throw such a discouragement in the way of similar offers, that he feared the United States would be considerable sufferers in the end. He thought an application for fifty thousand acres, which was really and speedily intended to be settled, ought not to be compared to the million acre purchases, which it was almost impracticable to settle.]

A division of the question being called for, it was determined that the report lie on the table. And then, that the Secretary of the Treasury report a uniform plan, &c.

The report of the Secretary of War on the petition of C. Merkle was called up for a second reading, and, after some consideration, it was ordered to lie on the table.

Mr. WADSWORTH, from the committee on the business respecting the Southern frontiers and Indian affairs, informed the House, he was ready to report; but this being a subject communicated by the President in confidence, the galleries were cleared. After a short interval they were opened.

UNFINISHED BUSINESS.

A message was received from the Senate informing the House, that they had appointed Messrs. MACLAY, ELLSWORTH, and HENRY, to confer with a committee to be appointed by the House, for the purpose of establishing a joint rule to determine, whether the unfinished business of last session should be taken up in the present, in the same manner as if no adjournment had taken place.

It was then moved that the House concur with the Senate, and appoint a committee accordingly.

Mr. PAGE said, that the House had already decided the question by their practice, and therefore a committee was unnecessary, unless the Senate had pursued a different mode. He remarked the ill consequences flowing from a contrary practice, and hoped the Legislature of the Union would never be exposed to them. He thought it would have a very singular appearance, to give reason for supposing that the House had sat fourteen days, and did not yet know the state of their unfinished business.

Mr. SEDGWICK hoped a committee would be appointed, for there was nothing improper proposed to their consideration. The Senate wish for a joint rule which will be productive of uniformity and harmony. Shall we abridge them of an opportunity of carrying their good intentions into effect? Will this be decent or respectful? Will it be acting as one gentleman ought to act to another? He thought it would not.

Mr. LEE differed in opinion with the gentleman last up. He thought each House ought to establish its own rule of procedure; it was the right they derived from the Constitution, and a step of this kind might be construed to deprive them of its free exercise; he was, therefore, against setting a precedent injurious to the privileges of the House. If, indeed, there was a difference between the two Houses in their practice, a committee of conference might be proper, but there was none such that he had heard of; the House had decided already for themselves, that they would take up the business *de novo*; if the Senate did the same, there would be no occasion for the appointment of a committee.

Mr. STURGIS thought there was a propriety in establishing a joint rule of both Houses, with

JANUARY 20, 1790.]

Unfinished Business.

[H. OF R.]

respect to what passed from the one to the other; if they adopted a different rule with respect to other matters, he did not suppose there would be any clashing; he was therefore inclined to confine the consideration of the committee to the first point alone.

Mr. SMITH contended, that the House had already determined the question, which the committee were proposed to consider of; the House had already appointed a committee to bring in a bill to provide for the national defence, although a committee was appointed for that purpose at the last session; that is, a committee was appointed to bring in a bill for the general regulation of the militia, and the two objects were in effect the same; that the very members who were appointed on the one, were re-appointed on the other; but if gentlemen did not think this case sufficient to determine the question, he would refer them to the Journal for others. They would there find that a committee had been appointed at the last session to bring in a bill for enumerating the inhabitants of the United States, and that that subject had been specially referred to another during this session; it therefore necessarily followed, that the business of the last session was done away by its expiration.

Mr. STONE thought it was prudent to appoint a committee, in order to prevent a disagreement in the practice of both Houses. If the Senate were not consulted, they might pursue a different practice from what was adopted by the House; they might pass the bill that was now before them, and send it to the President for his approbation, in which case he presumed the bill would be a law; but if other gentlemen differed in this opinion, he did not see any necessity for involving the public in the discussion, when it might be avoided by so little trouble.

Mr. LEE expressed a wish that the Speaker would please to inform the House, whether he did not conceive that the decision which had taken place on appointing a committee on the subject of enumerating the inhabitants, had clearly decided the question, that the business which was left unfinished at the last session should be taken up *de novo*.

The SPEAKER said, that there was a motion first proposed by a gentleman from Massachusetts, to discharge the committee; but this was withdrawn in order to give room for a motion to go into a Committee of the whole on the President's speech.

This motion being lost, a motion was made to confer with the committee of the Senate to report to both Houses a uniform rule of proceeding; but this, after some debate, was withdrawn; then a question for appointing a committee on the business of the census was put and agreed to.

Mr. SMITH begged leave to differ from the honorable Speaker, as he supposed the motion of appointing a committee of conference was put, and negatived.

Mr. WHITE remembered that such a motion had been made, but did not recollect how it was got rid of; but he presumed that the motion which obtained decided that the unfinished business of the last session ought to commence *de novo*.

Mr. JACKSON thought it was a question of politeness, and he wished to keep on good terms with the Senate; therefore, he was in favor of the motion.

Mr. CLYMER said, if gentlemen wished to know the sense of the House with respect to the unfinished business, they might consult the Journal of the last session. When the House was pressed in point of time, after an adjournment had been deemed expedient, they determined to refer such business as they were not able to complete, specially to the next session. Not only this House have agreed to this principle, but the Senate have done the same. By their message, the last day but one of the late session, we find that they expressly postponed, until the next session of Congress, the consideration of the amendment proposed by this House to the amendment of the Senate to the bill for establishing the seat of Government. What does this mean, but that the House should be in possession of the business at the subsequent meeting? If the House had been impressed with the idea of gentlemen who are for originating the unfinished business *de novo*, they would only have recommended the consideration of those subjects at this meeting.

The question was now taken on appointing a committee of conference, and carried in the affirmative.

Whereupon, Messrs. SHERMAN, THATCHER, HARTLEY, WHITE, and JACKSON, were appointed a committee for that purpose.

Mr. LEE then moved that the committee be instructed by the House, to inform the committee of the Senate, that the House had decided the question by their practice, and determined, the unfinished business of the last session be taken up *de novo*.

Mr. WHITE did not see any advantage that would arise from such instruction, because the Senate were already acquainted with the decision.

Mr. LIVERMORE hoped no such instructions would be given to the committee; he presumed the Speaker had appointed gentlemen adequate to the task, without instructions; besides, he had not learned that the Senate had instructed their committee, consequently the conferees would meet on equal ground. Committees of this kind, he observed, were appointed to investigate and discover what is proper to be done; their abilities, therefore, ought to be left at full liberty, nor could any inconvenience result from this, as the House were not bound to adopt the report of their committee.

The debate was interrupted by a motion for adjournment, which was agreed to, and then the House adjourned.

H. OF F.]

Arrangement of the Militia.

[JANUARY 25, 1790.]

THURSDAY, January 21.

GEORGE LEONARD, from Massachusetts; PETER SYLVESTER, from New York, and THOMAS FITZSIMONS, from Pennsylvania, appeared and took their seats.

Mr. WHITE suggested the propriety of extending the time for admitting the claims of the soldiers and officers of the late army to a compensation; he thought a general provision would be better, if a provision was at all proper, than this mode of referring the application of individuals to the Executive officers, which consumed much of the time of the House unnecessarily.

Mr. LAWRENCE moved, that the petition of Cornelius Hoffman, respecting the losses of the inhabitants of West Chester, be referred to the Secretary of the Treasury.

Mr. JACKSON objected to a partial reference of a business of this kind; if any thing was done, it ought to be upon general principles; but he observed, that the losses sustained to the Southward, by the people of South Carolina and Georgia, were so great, that it would require all the money the public were possessed of to compensate them, their entire crops for one or two years having been totally destroyed.

The motion, however, for referring the petition was adopted.

Mr. SEDGWICK brought in a bill for compensating persons employed in the intercourse between the United States and foreign nations, which was read the first time.

A message from the President of the United States, was delivered by Henry Knox, Secretary of the Department of War, as follows:

UNITED STATES, January 21, 1790.

*Gentlemen of the Senate,
and of the House of Representatives:*

The Secretary of the Department of War has submitted to me certain principles, to serve as a plan for the general arrangement of the militia of the United States.

Conceiving the subject to be of the highest importance to the welfare of our country, and liable to be placed in various points of view, I have directed him to lay the plan before Congress, for their information; in order that they may make such use thereof as they may judge proper.

GEO. WASHINGTON.

WAR OFFICE, January 18, 1790.

SIR: Having submitted to your consideration a plan for the arrangement of the militia of the United States, which I had presented to the late Congress, and you having approved the general principles thereof, with certain exceptions, I now respectfully lay the same before you, modified according to the alterations you were pleased to suggest.

It has been my anxious desire to devise a national system of defence, adequate to the probable exigencies of the United States, whether arising from internal or external causes; and, at the same time, to erect a standard of republican magnanimity, independent of, and superior to, the powerful influences of wealth.

The convulsive events, generated by the inordinate pursuits of riches or ambition, require that Government should possess a strong corrective arm.

The idea is therefore submitted, whether an efficient military branch of Government can be invented, with safety to the great principles of liberty, unless the same shall be formed of the people themselves, and supported by their habits and manners.

I have the honor to be, Sir,

With the most perfect respect,

Your obedient servant,

HENRY KNOX,

Secretary for the Department of War.

To the PRESIDENT of the United States.

[General KNOX's plan for the arrangement of the militia of the United States, above referred to, will be found in the Appendix at the end of this volume.]

FRIDAY, January 22.

GENERAL POST OFFICE.

The Secretary of the Treasury laid before the House the report of the Postmaster General, a copy of which will be found in the Appendix at the end of this volume.

The House having gone through the report, the Clerk was going on to read the bill which accompanied the same:

Mr. FITZSIMONS thought there was a degree of indelicacy, not to say impropriety, in permitting the Heads of Departments to bring bills before the House. He thought it was sufficient for them to make reports of facts, with their opinions thereon, and leave the rest to the discretion of the Legislature. It would certainly be time enough for them to report bills when they were desired to do it.

Mr. PAGE moved to refer the report of the Postmaster to a select committee; but he was perfectly of opinion with the gentleman from Pennsylvania, that no bill ought to be read in the House that did not originate with its leave.

The motion for referring the report to a select committee was carried, and Messrs. FITZSIMONS, GERRY, SINICKSON, PARKER, and STONE, were appointed.

Mr. SHERMAN, from the Committee of Conference on the unfinished business, reported, that the committee had agreed that the unfinished business of the last session, that had passed from the one House to the other, ought to be regarded as if it had not been passed upon by either.

The House then proceeded to the consideration of the report respecting the Southwestern frontiers and Indian affairs.

The gallery was hereupon ordered to be cleared.

MONDAY, January 25.

A message from the President of the United States was received, accompanied with the copy of the act of the Legislature of Maryland, ratifying and adopting the amendments to the Constitution of the States, proposed by Congress at the last session.

CENSUS OF THE UNION.

The House resolved into Committee of the whole on the bill providing for the actual enu-

JANUARY 25, 1790.]

Unfinished Business.

[H. OF R.]

meration of the inhabitants of the United States, Mr. BALDWIN in the chair.

Mr. MADISON observed, that they had now an opportunity of obtaining the most useful information for those who should hereafter be called upon to legislate for their country, if this bill was extended so as to embrace some other objects besides the bare enumeration of the inhabitants; it would enable them to adapt the public measures to the particular circumstances of the community. In order to know the various interests of the United States, it was necessary that the description of the several classes into which the community is divided should be accurately known. On this knowledge the Legislature might proceed to make a proper provision for the agricultural, commercial, and manufacturing interests, but without it they could never make their provisions in due proportion.

This kind of information, he observed, all Legislatures had wished for; but this kind of information had never been obtained in any country. He wished, therefore, to avail himself of the present opportunity of accomplishing so valuable a purpose. If the plan was pursued in taking every future census, it would give them an opportunity of marking the progress of the society, and distinguishing the growth of every interest. This would furnish ground for many useful calculations, and at the same time answer the purpose of a check on the officers who were employed to make the enumeration; forasmuch as the aggregate number is divided into parts, any imposition might be discovered with proportionable ease. If these ideas meet the approbation of the House, he hoped they would pass over the schedule in the second clause of the bill, and he would endeavor to prepare something to accomplish this object.

The committee hereupon agreed to pass over the part of the bill alluded to.

Mr. LIVERMORE moved to amend the last clause of the bill, by striking out all that related to the mode of compensating the Marshal and his assistants, which were specified sums, proportioned to the service, and to substitute a provision, authorizing the Marshal, or his assistants, to receive from every male white inhabitant above the age of twenty-one, five cents; and of the owner of every male slave, of like age, three cents; reserving, for his own use, four cents out of every five, and paying the other one cent to the Marshal. He thought this was an equitable tax, agreeable to the spirit of the constitution; that it might be collected with safety and satisfaction; while, on the other hand, the mode proposed in the bill would be extremely inconvenient; it would draw a considerable sum out of the Treasury, which their present situation did not enable them to spare.

On the question this motion was lost.

The committee then, after making some small amendments, rose and reported progress.

UNFINISHED BUSINESS.

A message was received from the Senate, informing that they had adopted the report of the

joint committee on the unfinished business, and requesting the concurrence of the House.

A motion was made to concur.

Mr. HARTLEY said, that the other day he had laid a motion on the table relative to this subject, and which he expected might have decided it. He had then given his opinion, that the unfinished business of the last session ought to progress from the stage in which it was left at the adjournment. Since that time he had had the honor of being appointed, on the part of the House, a member of the Committee of Conference on the same question; but after hearing all that could be urged in favor of commencing the business *de novo*, he still retained his former sentiments; nor should he alter them unless some stronger arguments were adduced in support of the contrary doctrine. He would, on this occasion, trouble the House no further than just to express his idea of the difference between an adjournment and prorogation, for it was upon their similitude that gentlemen founded their idea of commencing business *de novo*. A prorogation of Parliament is the act of the first Magistrate in Great Britain, and by that act he dismisses all the business before Parliament. By an adjournment, which is the act of the Legislature, all the business remains in their possession. If they remain possessed of the business, they have a right, and they ought to take it up in the state in which it was at the time of adjournment. This continuance of business is much more beneficial to the Commonwealth, by expediting causes, by saving time, and consequently diminishing the expense. But even upon a prorogation of Parliament, the Houses have asserted their right to continue their bills in the state in which they were left.

He did not think it was necessary to detain the House long upon this subject. He supposed that most of the gentlemen had made up their minds, and that a long investigation would not produce a single convert. For his part, he was opposed to the motion, and would vote against it.

Mr. JACKSON said that, on the conference, there was a majority of the committees of both Houses in favor of the report. After a long and full discussion, it appeared to them necessary that the business should be taken up *de novo*, because circumstances might occur during a recess, which would convince the House of the impropriety of a measure they had contemplated at their last session: an adjournment, therefore, amounts to the same thing as a prorogation. The opportunity the recess afforded them of consulting their constituents was the same in either case, and enabled them to form a more certain opinion with respect to the propriety of their measures, than any other thing could possibly do. Ought the Legislature, then, to be compelled to proceed with business they were certain was altogether impolitic and improper?

Mr. WHITE would not enter into a discussion of the subject; but he was satisfied that the

H. of R.]

Foreign Intercourse.

[JANUARY 25, 1790.]

decision was right, in order to prevent very great inconveniences. It never was a question with him, whether business should cease on an adjournment; he had always seen it practised in the Legislatures he had had the honor of serving in, and he always expected it would be so determined in every public body regardless of the opinion of their fellow-citizens.

Mr. HARTLEY denied that there was any similitude between a prorogation and an adjournment; the one was the will of the body upon which it acted, the other was an exterior force, which compelled submission. No gentleman could suppose that the Legislature of the United States was obliged to forego the business they had proceeded upon at the last session, nothing was to determine them but their own inclination. Now as he was satisfied it was more beneficial to the people, and more convenient to the Legislature, to proceed with the business of the former session, he should be against the report.

The question on concurring with the Senate was put, and carried in the affirmative—30 in favor, and 21 against it.

Mr. SMITH then laid the following on the table:

Resolved, That it be established as a standing rule of the House, that every future adjournment of Congress, for more than — days, shall be considered as a termination of the session; and that at the next meeting the business depending at the time of such adjournment shall be taken up, unless it be commenced *de novo*.

Mr. BURKE said, there was a bill of some consequence brought forward last session which had been left in an unfinished state; and as the House seem inclined to direct all such business to commence anew, he would beg leave to call upon them to appoint a committee for the purpose of securing literary property. He said that such a bill was very much wanted, as several gentlemen had lately published the fruits of their industry and application, and were every hour in danger of having them surreptitiously printed. He believed this was no unfounded surmise, for he had been informed that it had taken place in some instances already; he would mention one of them: Mr. Morse had published an American Geography, illustrated with two sheet maps of the Southern and Northern States: these had been surreptitiously copied, and annexed to another publication, since the business was brought before the House at the last session; and the same gentleman is under apprehension that the whole work will be reprinted without his consent, unless a law was speedily passed to secure to him his copy-right.

Mr. WHITE wished the gentleman would extend his motion to embrace the other objects intended to be provided for by the bill brought before the House at the last session.

Mr. BURKE said, that he meant to provide for that in another resolution. He wished the first to be done immediately, and a short bill would be sufficient for the purpose, because it

is almost as easy to ascertain literary as any other kind of property; whereas there is some difficulty in deciding upon improvements or inventions in the useful arts. This latter object, he apprehended, would occasion a good deal of discussion.

On the question, Mr. BURKE's motion was adopted, and a committee was appointed, consisting of Messrs. BURKE, HUNTINGTON, and CADWALADER.

The same committee was also ordered to bring in a bill to promote the progress of useful arts, by securing to inventors the exclusive right of their discoveries.

NORTH CAROLINA.

TUESDAY, JANUARY 26.

The House resolved itself into a Committee of the whole on the bill for giving effect to the several acts therein mentioned, in respect to the State of North Carolina, Mr. BALDWIN in the chair. After making several amendments to said bill, the committee rose, and reported the bill with the proposed amendments to the House. Being taken up, the amendments were severally agreed to, and the bill, as amended, was ordered to be engrossed for a third reading.

CENSUS OF THE UNION.

The House then went into a committee of the whole on the bill providing for the enumeration of the United States, Mr. BALDWIN in the chair. After making several amendments to said bill, the committee rose, and reported the bill with amendments to the House. Whereupon, the bill with the proposed amendments was committed to a select committee, consisting of Messrs. FOSTER, GOODHUE, SHERMAN, LAWRENCE, SCHUREMAN, CLYMER, SENEY, WHITE, SMITH, of South Carolina, BALDWIN, and MADISON.

REMISSION OF FINES, &c.

Mr. AMES, from the committee to whom was referred the report of the Secretary of the Treasury on the petition of C. Sadler, reported, that provision ought to be made for the remission or mitigation of fines, penalties, and forfeitures in certain cases. The report being agreed to, it was referred to the same committee to bring in a bill accordingly.

Mr. AMES then presented the draught of a bill conformably to the order of the House.

FOREIGN INTERCOURSE.

The order of the day being called for, the House resolved itself into a Committee of the whole on the bill to provide for the means of intercourse between the United States and foreign nations.

The bill authorizes the President to draw for a sum not exceeding forty thousand dollars, to compensate the services of such officers as shall be sent abroad.

Mr. LIVERMORE moved to make this an annual appropriation, which he supposed was the

JANUARY 26, 1790.]

Foreign Intercourse.

[H. OF R.]

intention of the committee who brought in the bill.

Mr. LIVERMORE's amendment was adopted.

Mr. LEE said, that as the constitution had vested in the President, with the advice and consent of the Senate, the power of appointing ambassadors and other public ministers, he thought they ought to be equally interested in proportioning their salaries; and further, the President ought not to be empowered to draw money for those purposes without their advice and consent. He thought it would be well to determine whether the constitution did not bind them to adopt this idea; and, in order to obtain the sense of the House on it, he would move to amend the clause by inserting the words, "by and with the consent of the Senate," after the word "President."

Mr. SMITH, of South Carolina.—It appears very clear from the Constitution, that the Senate is connected with the President in the appointment of the officers noticed in this bill; but yet I do not presume it follows, as a matter of course, that they should be connected in apportioning the salaries, or drawing for the money. If it is not enjoined by the Constitution, it will be wrong to make such an arrangement, because it will diminish the responsibility of the Executive officer; it may also open a door for cabal, if at any time the friends of the Senators are employed on such a mission. If the constitution is silent on this head, and I presume it is, the principle of expediency will never lead us to this amendment. But do gentlemen suppose, that they will acquire a greater degree of security? I apprehend this will not be the case; the President is as nearly related to the people as the Senate are; he will be equally careful of their interests, and he is not, from his situation, so exposed to the effects of an intriguing cabal as they are. Hence, I presume, the point of security is equally against the motion.

Mr. STONE.—If we adopt the ideas of the committee, and give to any body a discretionary power of disposing of the public money, it should be given to the President, by and with the consent of the Senate; because the Constitution has vested them with equal authority in every transaction relative to this business. If you give an influence to the President superior to the Senate, in any thing relating to the intercourse between the United States and foreign nations, you deviate from the principles of the Constitution. If he is to form treaties, by and with the advice and consent of the Senate, they ought to have an equal influence over the persons who are to conduct the negotiations. If you give equal power to A and B to transact your business, and they employ agents, and you give the means of payment exclusively to A, I leave it to any person of candor to say which of the two will have the most influence in conducting it. If A is also to have the power of giving a large or small salary, he will have five times the influence that

the other will. From hence I infer, that if you give a discretionary power at all, you should give it equally to the persons who are to constitute your agents.

Mr. HUNTINGTON observed, that this subject had been discussed in the committee, and it was determined to vest the discretionary power in the President alone, of drawing for the money as circumstances might require; because it might happen, that the money might be wanting during the recess of the Senate, and it would hardly be expedient to call that body together for the purpose of making a draft upon the Treasury for a small sum of money; it was also judged prudent to leave it at the discretion of the Executive officer to apportion the salaries; because officers of equal rank might be well compensated with a less sum at some Courts than at others. He apprehended no danger could arise, because the highest sum that could be given was proposed to be fixed by the law.

Mr. SEDGWICK.—As far as I am concerned in bringing forward this bill, two considerations influenced me not to concur in the idea of the gentleman from Virginia, and they were these: one, arising from the consequences naturally attending such a combination of the departments of Government; and the other, the responsibility which we ought never to lose sight of when we are providing for the distribution of the public money.

The gentleman from Maryland (Mr. STONE) has told us, that we give an unbounded influence to the Executive officer, because we enable him to apportion the money among them. That gentleman, perhaps, did not attend to the bill, which provides expressly for the several grades of officers which the Constitution supposed, in the ordinary events, would be employed in superintending the interests of the United States at foreign courts. If he had observed this, he would not suppose that the discretion of the President gave him an improper influence. These officers cannot be appointed to any situation, nor to any rank, but with the advice and consent of the Senate, no particular character can be selected by the President; therefore, I presume, the Senate have all the agency he wishes them to possess.

Mr. STONE understood that the President was at liberty to give any thing under nine thousand dollars to a minister plenipotentiary, or under five thousand to a resident, or three thousand to a chargé des affaires; if so, he was at liberty to pay them well or ill, as he should conceive they merited.

Mr. SEDGWICK.—When it is said that he shall not give a larger sum to a minister of the first grade, I presume that the payment of that particular sum will generally take place; but there are other circumstances attending this business which show the propriety of vesting the discretionary power in the President alone. Suppose a minister actually appointed, and some incidental business should arise, to oc-

H. OF R.]

Foreign Intercourse.

[JANUARY 26, 1790.]

casion an actual expenditure of part of this money; for example, a minister at the court of Prussia might find it necessary to remove some obstructions to his negotiations which had arisen at the court of Russia; he would be obliged to apply to the President to authorize him to take measures for its prevention; but as money would be essentially necessary to effect the object, the President, though he approved of the idea of the minister, could do nothing without calling the Senate together, if it happened to be a recess; the business would not progress without an expense of more than, perhaps, double the sum that was necessary. To provide for cases of this kind was one of the objects the committee had in view; another was, that the person who touched the public money should be responsible for the expenditure. If the money is to be drawn by the President and Senate, so diffuse is the responsibility, as to be considerably weakened, if not altogether destroyed. These were the considerations that operated conclusively with me, and determined my judgment in favor of the bill as it stands.

Mr. LAWRENCE said, that there was a constitutional necessity that the President, by and with the consent of the Senate, should appoint all the officers employed in foreign negotiations; the same necessity existed with respect to making treaties; but he did not conceive there was any constitutional necessity for connecting the Senate with the President in apportioning the salaries; it was altogether in the power of the Legislature; they might apportion the salaries and fix them by law, if they thought it convenient, without encroaching upon the right of the President, or the President and Senate. If they could apportion themselves, they might authorize another body to do it; for he presumed, that neither the President, nor the President and Senate could contend for this power as a matter of right; the question then seemed to him to turn altogether upon the expediency, which was conceded to be in favor of the manner prescribed in the bill.

He remarked, that the discretion of the President was confined within precise limits; he could not grant a larger salary to the officers than that prescribed in the bill; all that he could do was, therefore, to give less where he thought less would be sufficient, of which he conceived the President to be the proper judge.

Mr. STONE said, that gentleman had not replied to his observation, drawn from the Constitution; he had contended that a discretionary power in the hands of the President, to give a greater or less salary, would give him a greater influence than the Constitution had contemplated. The Constitution had given to the President the power of making treaties; but it must be done by and with the advice and consent of two-thirds of the Senate. Do we then not depart from this principle, when we increase the agency of the President? If it is not contrary to the letter of the Constitution, I

presume it is contrary to the principle of it, and we are bound to administer this system of Government upon its real principles. He believed that the President knew very well what would be a proper sum to give to every officer of the diplomatic corps, at all the Courts of Europe; but it did not follow that the Senate was without an equal knowledge; he would always attribute as much knowledge and integrity to that body as to the Chief Magistrate, and this he did on the principle of the Constitution, which supposed that there was equal safety, and equal propriety in authorizing them to attend to such part of the public interest as was connected with the appointment of their servants employed in the intercourse between the United States and foreign Courts.

However, if this amendment was even made, he should be against the bill, for two reasons; one, because it vested a discretionary power in the disposal of public money; and the other, because it incurred a perpetual expense, which he hoped at some day would be found to be unnecessary.

Mr. LAWRENCE did not apprehend the President would derive any influence from the power of drawing for the money necessary to pay the officers their salaries. He supposed, however, that it would be proper to limit the bill; because the circumstances of the Union might require a less sum perhaps than was contemplated at the present time.

Mr. STONE supposed, on a variety of occasions, that the President may wish for one person and the Senate for another. If the person approved by the President be rejected by the Senate, and their favorite employed, the President can make his situation so irksome, on account of his salary and the manner of payment, as to induce him to a voluntary resignation; or if he continues in office, he must change his disposition and be subservient to the Magistrate who can render him more easy in his employment. And can gentlemen say that this is not an influence? Now, if it is admitted to be but the smallest degree of influence, it is contrary to the principles of the Constitution, which interests the Senate equally with the President, in the whole business of negotiation. It is not to be apprehended that any danger will arise, during the present administration, from a trust of this nature; but he was not willing to establish a precedent which might operate hereafter to warrant the Executive in the exercise of an unconstitutional power.

Mr. SHERMAN.—The establishment of every treaty requires the voice of the Senate, as does the appointment of every officer for conducting the business. These two objects are expressly provided for in the Constitution, and they lead me to believe that the two bodies ought to act jointly in every transaction which respects the business of negotiation with foreign powers. But the bill provides for the President to do it alone, which is evidently a deviation from the apparent principle of the Constitution. And

JANUARY 26, 1790.]

Foreign Intercourse.

[H. or R.]

what do gentlemen urge as an argument to induce the committee to adopt their idea? Why, that the singleness of the officer who appropriates and disburses the public money, will insure a higher degree of responsibility than the mode recommended, at least by inference, by the Constitution. This argument would serve to prove, that a single person ought to exercise the powers of this House—consequently, it goes too far. There is something more required than responsibility in conducting treaties. The Constitution contemplates the united wisdom of the President and Senate, in order to make treaties for the benefit of the United States. The more wisdom there is employed, the greater security there is that the public business will be well done. As to the circumstance of drawing money out of the Treasury, it is of little consequence; but if a discretionary power is to be exercised in apportioning the salaries of the ministers, there will be more security in connecting the Senate with the President.

Mr. SMITH, of South Carolina.—Gentlemen seem to confine their views to ministers employed in making treaties; but this is not all that the bill refers to. Many officers may be established in the diplomatic line without being concerned in making treaties. A minister may reside twenty years in France without being employed in the formation of any treaty whatever. A treaty may be negotiated without the intervention of any person in such a character; or a person may be employed distinct from him, as was the case in the late commercial treaty between France and Great Britain.

If the Constitution is involved in the present question, it is because the Senate are connected with the President in appointing the officer. But this doctrine would extend too far. The Senate are joined in the appointment of all superior officers; it would then follow as a consequence, that they ought to be concerned in affixing the salaries of them. It would apply, on the same principle, to the Secretary of the Treasury, and every other of the Heads of Departments, except the Judges; it would not extend to them, only because it requires that their salaries shall be permanent.

Another inconvenience would result: A Senator might be sent on an embassy, and being, from his situation in that body, in habits of intimacy with all the members of it, there would be danger of an improper allowance being granted to him. These objections, besides the probability of the President's being obliged to take some steps in the business during the recess of the Senate, show the necessity of vesting this discretionary power in the President alone, where gentlemen admit there is the greatest degree of responsibility. But the Constitution does not appear to trust that equal confidence in the Senate; for it gives the President the first and greatest influence. It is he who is to nominate the person, and the concurrence of the Senate may generally be expected to follow, as a matter of course. After giving to him

this influence, little danger can be supposed to arise from vesting in him a discretionary power which is absolutely necessary, and for the proper exercise of which he is highly responsible.

Mr. SCOTT thought this measure appeared like an expedient, into the use of which they were falling for want of information. The very preamble which the committee had affixed to the bill warranted the idea. But he not only doubted the propriety of the expedient, but also whether the committee had a right to adopt it. He thought, however, it was a question well worthy of discussion, whether this House was well warranted to commit the appropriation of the money of the people of the United States to any particular body, whether it was the President alone, or the President and Senate combined. He thought, from the first view of the subject, that the voice of this House ought to be given to the disposition of every sum that goes out of the Treasury, and consequently he objected to the principle of the bill, and should vote against it, with or without the amendment. But if the bill must pass in its present form; if the apportionment of the several salaries was so great, a secret as to elude the search of the House, and their information must continue in its present incomplete state, he should vote for that mode which appeared to give the greatest security; but he could not help believing the House was adequate to forming a complete provision on this head: he did not see what was to prevent them from running the routine of every Court in Europe, and apportioning, as they proceeded, the salaries of every grade of officers in the diplomatic corps, provided a different sum was necessary to be paid ministers of equal rank at the Courts of France, Britain, and Genoa. He just mentioned his objection to the committee, to prepare them for a motion he intended to make when the Speaker resumed the chair; which was, to recommit the bill to the Select Committee, in order to make special provision therein.

Mr. MADISON remarked, that the amendment offered by his colleague (Mr. LEE) would not decide the question for which it was intended; because the part of the bill into which he moved to have it inserted, only related to the power of the President to draw for the money, which was a thing totally distinct from apportionment, and which could be better performed by the President alone than connected with a large body.

Mr. LEE hereupon withdrew his motion, and having modified the whole clause of the bill, so as to embrace this question, "whether the advice and consent of the Senate ought not to be had in the exercise of the discretionary power of apportioning the salaries?" proposed it in order to take the sense of the committee.

Mr. BENSON said, it would be wrong to blend the Senate with the President, in the exercise of an authority not jointly vested in them by the Constitution; and in any business whatever of an Executive nature, they had no right to do

H. OF R.]

Foreign Intercourse.

[JANUARY 27, 1790.]

it, any more than they had a right to associate a committee of this House with him. Now, he had not yet heard any gentleman say the Constitution expressly commanded the association moved for, and unless it was a command, he presumed they were not disposed to conform to it.

Mr. LEE informed the committee, that his motion was likewise intended to strike out the provision for contingent expenses; not that he thought them disallowable, but because he wished for a general bill providing for all the contingents of the Government.

Mr. SEDGWICK was as much opposed to the amendment in this form as any other. He would ever be in favor of singleness in the Executive, but especially when it was proposed to join with it a body that existed forever—for this was his idea of the Senate;—a body in which every member, from their long adherence thereto, learned to understand each other, and might, on any occasion, impede the progress of the other branch of the Government to the injury of the whole.

Mr. LEE said, these ministers were the joint servants of the President and Senate, and therefore ought to be equally under their care; they had a joint agency throughout, and therefore they ought to have the same in apportioning the compensation for their services.

Mr. LIVERMORE deemed the question of some importance, and therefore wished for time to consider it more fully. In order to obtain this, he moved the committee to rise and report progress.

This motion obtained, and the House adjourned.

WEDNESDAY, January 27.

The engrossed bill for giving effect to the laws of the United States therein mentioned, in respect to the State of North Carolina, was read the third time and passed.

The bill for the remission and mitigation of fines, penalties, and forfeitures, was read a second time, and committed to a Committee of the whole.

FOREIGN INTERCOURSE.

The House then again resolved itself into a Committee of the whole, Mr. BALDWIN in the Chair, on the bill providing compensation for persons employed in the intercourse between the United States and foreign nations.

Mr. JACKSON.—The question before us, I presume, turns upon the propriety or impropriety of trusting the President alone, or the President and Senate, with a discretion in the disposition of the public money. It will be a matter of indifference to me which of these it is given to; but I am clear we have the power to give it to whom we please; we may even give it to a committee of this House, if we deem it expedient. But I am inclined to give it to neither. The appropriation of public money belongs, in a peculiar manner, to this House, and I am for

retaining the power in our own hands. It was objected to this, that it would take up time; but I ask, for what were we sent here, but to watch over the public treasure? Gentlemen have said, that the President and Senate ought to have discretionary power in allowing salaries to our ministers abroad, because they are best informed what will be a proper compensation for the service which they have an exclusive right to order to be performed. I beg these gentlemen to look at the law passed last session, providing for commissioners, which commissioners, by the by, were, to all intents and purposes, officers of the diplomatic corps. Did this House view themselves as inadequate to say what would be a proper compensation for any gentleman the President might employ? No, sir; this House annexed a daily pay to the office, sufficient to procure good men. Why cannot the same be done at this time? Did the late Congress ever think of vesting such a discretionary power in their President? Certainly they did not. On what principle, then, is it contended, that we should vest a discretionary power in an individual? Is it because it will take up our time? That is a poor excuse. It is out of our power to learn what is sufficient to maintain a minister at Paris, Madrid, Amsterdam, or London, or to discriminate between them and Genoa. If we are not possessed of full information on this head, cannot we acquire it of the proper officer? Will not the records of the late Congress elucidate the subject? Is it not fair to suppose, that what was sufficient three or four years ago, will be sufficient now; or if a difference is necessary, we can judge thereof as well as another? But any how, sir, I am clear for keeping the power of disbursing the public money in our own hands. If we adopt this bill now, on some future occasion we shall have to go further; and the principle that one is more responsible than many, will lead us to establish an arbitrary Government.

Mr. BOURNOR conceived that this difference of opinion rose from not attending fully to the subject matter of the bill on the table. Gentlemen seemed to argue, that a discretionary power, with respect to the disbursement of the money granted in the bill, ought not to be vested in the President alone, because the Senate were connected with him in appointing the ministers among whom it was to be distributed. Now this objection, he thought, had been fully answered; therefore, he should make no further observations upon it. But the gentleman last up opposed this discretionary power altogether, whether vested in the President alone, or the President in conjunction with the Senate, because he supposes the House is competent to decide. Now, I conceive we are so circumstanced as not to be able to ascertain the proper sum required by every diplomatic officer who may be sent to the various Courts of Europe, and other quarters of the globe. Now, what power do we propose to vest in the President? Not that of giving away the public money in

JANUARY 27, 1790.]

Foreign Intercourse.

[H. of R.]

such a manner as he may please; but that for certain services he shall give a sum not exceeding a fixed amount; if he can get the business done for less than we suppose it deserves, it is a proper caution that we use to enable some one to reduce it. And who is so proper as the President? The gentleman says, we should fix the salaries of ministers at the different Courts. I much question the propriety of making such discrimination in a public act. I had rather refer it to the Executive Magistrate, under such restrictions and limitations as are provided in the bill.

Mr. SCOTT.—The subject in dispute I view but as a secondary consideration, Mr. Chairman. I think we ought first to determine upon the principle, whether a discretion can be given at all. This was the idea I suggested yesterday, and which has been again brought forward by the gentleman from Georgia. Now, to decide this question, we ought to inquire whether this power is of an Executive or Legislative nature? I think disposing of, or giving away sums of public money, is a Legislative, not an Executive act, and cannot be performed in any other way than with all the formalities of Legislative authority. This being my conception of the business, I shall take no notice of the propriety of giving it to the President, or to the President and Senate, because the same objection lies against both; it would be improper to give it to either, because we have not authority so to do; it being a Legislative transaction, we cannot put the part which depends upon us off our own shoulders, or on the shoulders of any other.

It has been said, we cannot fix the necessary sum for each, without making invidious distinctions between foreign nations. If that arguments amounts to any thing, it amounts to this, that all officers who are sent abroad must have an equal compensation; for if a discrimination is made in any manner, it amounts to a distinction, and must be invidious. But I cannot see a distinction in this light; we may have occasion for officers who have little to do; and it cannot be thought invidious that we do not pay them as much for doing less business, as we do others for doing more, or who are put to greater expenses in performing their duties.

It is said, that the proposition does not amount to an absolute appropriation by the President; but I differ from this opinion, and think that the power of reducing a certain sum enables him to fix the sum as much as if it had been in his discretion to raise it. It is, in either case, doing a complete Legislative act, which the Constitution has in part assigned to this House, and which we cannot dispose of to any man or body of men.

If the committee join with me in this sentiment, they will concur in the rising of the committee, in order to have the bill recommitted to a select committee, to bring it in upon different principles.

Mr. SEDGWICK would have no objection to go through and fix the salaries in the manner some

gentlemen wished; but he feared the House had not sufficient information for that purpose; but then, in the opinion of the gentleman last up, they were obliged to do it in this way. Now, he did not believe such a necessity existed; because he was satisfied, from the Constitution, and the construction put upon it by the House at the last session, that it was in the power of the Legislature to vest a discretionary authority in any proper body to dispose of specified sums for specific articles. How else could the business of the quartermasters' or commissaries' departments be performed, when such business was required? But, though he did not approve of the gentleman's reasoning, he would vote for the rising of the committee, because he did not think they had sufficient information before them to warrant a decision.

Mr. SMITH.—If the doctrine of the gentleman is true, it was flagrantly violated at the last session, and that by the very act referred to by the gentleman from Georgia. He observed, that we fixed the pay of the commissioners who were sent to treat with the Creek Indians, at eight dollars per day. True, sir; but we did not limit the whole sum which should be given them; they were employed for a term in the discretion of the President: but besides, we appropriated forty thousand dollars to be expended in the business of Indian treaties, and that at discretion. The Senate, to be sure, reduced this sum to twenty thousand, which the House ultimately agreed to; but in the first instance we agreed to appropriate forty thousand. We certainly did not think we acted unconstitutionally at that time; and yet, all that we directed the expenditure of was but a seventh or eighth part of the amount.

From some papers before this House, but which it may be improper to notice very particularly, we find that instructions have been signed by the President alone, and he it was who drew the money for certain uses out of the Treasury: this is a precedent in favor of the bill as it now stands. The case referred to, respecting the practice of the late Congress, is not at all in point; the late Congress were invested with both Legislative and Executive powers, it was therefore they, and they only, who could accomplish the whole business.

Mr. JACKSON denied having said that Congress had not power to vest the President with a discretionary authority in the case now before the House. On the contrary, he said, they could lodge it with him, or with the Senate and him combined; or, if they deemed it judicious, with a committee of this House. This was not the ground on which he rested his argument; he contended for the propriety of keeping the power of paying all the officers of the Government in their own hands. When it was not practicable to do so, then would it be time enough to grant a discretionary power to the President. Though the gentleman from Pennsylvania had carried his idea further, yet he would second his motion for the rising of the committee.

H. OF R.]

Foreign Intercourse.

[JANUARY 28, 1790.]

Mr. LAWRENCE hoped the committee would not rise for the purpose of recommitting the bill, unless they fixed upon the principles to guide the select committee in making alterations. He thought if the House attempted to fix the salaries, in the particular manner mentioned by the gentleman from Georgia, they would run the risk of doing an act of injustice with one hand, or lavishing away the public money with the other. He should therefore be against a measure which exposed them to so much danger. But the question of connecting the Senate with the President was more simple, and could be decided on the principle of expediency; for it appeared to be conceded, that the Constitution is not involved in the determination on this question, any more than it was last session, when the several Heads of Department were authorized to employ clerks, at a rate not exceeding five hundred dollars per annum. He therefore hoped the gentleman who moved the rising of the committee would withdraw that motion until this question was determined.

Mr. BORDINOT was against the committee's rising, because, if the ideas of the gentleman from Pennsylvania were in the bill, he should oppose them; therefore, as he disapproved of the end, he should object to the means of bringing it about.

Mr. SCOTT.—It is said, that my principle extends so far, that it would put it out of the power of Congress to grant any sum of money without a particular and specific appropriation; but I believe the principle does not extend to this degree. I know occasions, at times when the Legislature is not sitting, will present themselves, when money for secret services may be required; yet, in these cases, proof must be made of the expenses before they will be allowed in account, and any which are conceived to be improper will be rejected.

With respect to the act passed last session, to enable the President to hold treaties with the Indians, there certainly were twenty thousand dollars granted; but that part intended for the pay of the officers was specially appropriated. The same is now contended for; if you send officers to Europe, let their salaries be ascertained, in justice both to the public and themselves.

As to the remark, that the number of days was not limited for which the commissioners were employed, I would just observe that they might, upon that idea, have been kept in pay seven years, or much longer than the money would last to pay them; but, in this case, the public would not be obliged to allow them a further sum, so that an argument of this kind proves too much, and therefore proves nothing.

It has been said, that we run the risk of making an improper allowance. We may make it too small; if that is the case, application can be made to the Legislature, who, we are to trust, will always be ready to do justice to every one of their officers. We have seen such applications already, then why should we doubt their being made in future? Upon the whole, my

mind being convinced in the manner I have related, I cannot consent to withdraw my motion. Other gentlemen may be convinced of the propriety of contrary principles, with intentions equally good, or perhaps better; and be the event what it may, I am ready to submit to the decision of the House.

The question was now taken on the rising of the committee, and that being lost,

The question was put, on striking out of Mr. Lee's amendment, the words "by and with the advice and consent of the Senate;" this was carried in the affirmative.

Then the question on the amendment, as amended, was put and lost.

Mr. LAWRENCE proposed a clause for limiting the duration of the bill; this being agreed to, the committee rose and reported the bill, which was accepted by the House, as amended in committee, and the same was ordered to be engrossed.

THURSDAY, JANUARY 28.

The engrossed bill making compensation to persons employed in the intercourse between the United States and foreign nations, was read the third time.

Mr. SHERMAN observed, that by this bill forty thousand dollars were appropriated to uses with the propriety of which no gentlemen seemed to be well acquainted. He thought the House could not be warranted in passing a bill disposing of so large a sum of money without further information on the subject. He therefore moved that the bill lie on the table.

Mr. AMES presented the petition of John Wait, praying to be reimbursed for articles furnished to soldiers during the late war.

Mr. PARTRIDGE moved to refer this petition to the Secretary of War.

Mr. LIVERMORE thought it not a proper subject for legislative interference, as the man had his remedy at common law.

Mr. AMES wished the subject considered; observing, that this person had lost his property by trusting soldiers, who had deserted after running in his debt. But there was money due from the public to such soldiers, for which the man had orders, certified by the officers commanding regiments. Now, he ought not to suffer for an act of kindness; and, perhaps, it was owing to the supplies he, from time to time, furnished these men with, that they did not desert at an earlier period. He moved to take up the subject in a Committee of the whole.

Mr. LIVERMORE rather inclined to think, that the supplies furnished in this way were the cause of desertion; for the soldiers, after having got all they could in one place, might be disposed to try another; and perhaps these supplies afforded them the means of travelling.

The question, on referring it to a Committee of the whole, was put and lost.

Mr. AMES thought the petitioner sustained sufficient hardship by the loss of his property.

JANUARY 28, 1790.]

Secretary of the Treasury's Report.

[H. OF R.]

he therefore hoped that it might not be increased by a condemnation without a hearing.

Mr. LAWRENCE conceived the public were not entitled to benefit themselves by their own wrong. Perhaps there were considerable sums due to these soldiers at the time of their desertion; and perhaps this circumstance was the sole cause why they left the army, for it is often the case that soldiers do desert when they are ill paid. This consideration had so much weight in his mind, that he was inclined to hear the petitioner, and to do him justice.

Mr. WADSWORTH said, it was a constant practice in this country, and he believed in all others, that a soldier forfeited all his pay due at the time of his desertion. The sutlers, and all those who followed the army, know this circumstance well, and they supposed their profits enabled them to run the risk of all losses by desertion. The gentleman from New York knew this was the practice; and he would submit it to him, whether the man ought to have the pay of the deserters which he claimed. If this was the case, he presumed the principle would open a prospect to the House that would astonish them. The pay of every deserter would be claimed, upon one pretence or another, and there were not less than thirty thousand, or perhaps fifty thousand, of this number.

Mr. LAWRENCE acknowledged the practice in our army, and every other, to be as stated by the gentleman; but he did not conceive it just in its operation. Is it proper, he inquired again, that any nation should be benefited by its own wrong? Or that it should take to itself the pay of the soldiers driven to desert from the breach of contract on the part of the Government?

The motion for commitment being lost, it was moved to reject the petition, and this was carried in the affirmative.

REPORT OF THE SECRETARY OF THE TREASURY.

Mr. AXES observed, that the subject of the Secretary's report, on the means of promoting public credit, is the order for this day; but when I consider the circumstances under which this order was entered into, I am inclined to wish for an extension of the time. It will be recollected that this report was ordered to be printed, in order that the members might have it in their hands for consideration; when this was done, it was expected that the printing would be more expeditiously executed than the event has demonstrated it could be, of consequence our time for deliberation has been curtailed; and those gentlemen who were against so early a day before, will think the present rather premature. In order to accommodate them, I shall move you a longer day than otherwise I might be disposed to do; and if I am seconded, I move that the order of the day be postponed till next Monday week.

Mr. JACKSON.—The report of the Secretary of the Treasury, Mr. Speaker, embraces sub-

jects of the utmost magnitude, which ought not to be lightly taken up, or hastily concluded upon. It appears to me to contain two important objects, worthy of our most serious and indefatigable disquisition. The first is, that all idea of discrimination among the public creditors, as original holders and transferees, ought to be done away; and on this head, I must own to you, sir, that I formerly coincided in something like the same opinion, but circumstances have occurred, to make me almost a convert to the other. Since this report has been read in this House, a spirit of havoc, speculation, and ruin, has arisen, and been cherished by people who had an access to the information the report contained, that would have made a *Hastings* blush to have been connected with, though long inured to preying on the vitals of his fellow men. Three vessels, sir, have sailed within a fortnight from this port, freighted for speculation; they are intended to purchase up the State and other securities in the hands of the uninformed, though honest citizens of North Carolina, South Carolina, and Georgia. My soul rises indignant at the avaricious and immoral turpitude which so vile a conduct displays.

Then, sir, as to the other object of the report, the assumption of the State debts by the General Government, it is a question of delicacy as well as importance. The States ought to be consulted on this point, some of them may be against the measure, but surely it will be prudent in us to delay deciding upon a subject that may give umbrage to the community. For my part, before I decide, I should be glad to know the sentiments of the Legislature of the State from which I come, and whether it would, in their opinion, be more conducive to the general and particular interests of these United States, than retaining them on their present footing. I trust I am not singular on this point; for gentlemen desirous of deciding on full information, will not only wish for the sense of the Legislatures of the several States, but of every individual also. Perhaps gentlemen of the neighboring States may think it proper to take up this business at an early day, because they can learn the desires of their constituents in a short time; but let those gentlemen consider for a moment, that the distant States ought to have an equal opportunity, and we cannot hear the voice of Georgia in a week, nor in a month. I should therefore be as much in the dark on Monday week, as I am at present; I would wish, if the postponement is intended to answer any valuable purpose, that it should be extended to a longer period. I think the first Monday in May would be sufficiently soon to enter upon it, and shall therefore move it. In this time, the State Legislatures may have convened, and be able to give us their sentiments on a subject in which they are so deeply concerned.

Mr. BOUDINOT agreed with the honorable gentleman who was last up, that this subject is a matter of the highest importance, and worthy of due deliberation; that speculation

H. OF R.]

Secretary of the Treasury's Report.

[JANUARY 28, 1790.]

had risen to an alarming height; but this consideration bade him to be in favor of the only measure which could put a stop to the evil, that is, appreciating the public debt, till the evidences in the hands of the creditors came to their proper value. I also agree, said he, with the gentleman, that it would be a desirable thing to have the sense of the State Legislatures, and every part of the community, because it would tend to elucidate the subject; but we should not be led by visionary pursuits to defer a business of this magnitude too long. I think we may go into a committee of the whole on Monday week, without coming to a final determination; but if it is put off for a long period, it will cause a still greater fluctuation in the market, and increase those circumstances which the honorable gentleman laments as injurious to the peace and happiness of the community. We had better, therefore, look the business in the face, take it into consideration, and go through it deliberately; but, at the same time, as expeditiously as the novelty of our circumstances will admit. In this way also we may acquire information, because we obtain more from listening to each other's sentiments, than we can procure from any other source. But if, after all, gentlemen should find themselves unprepared on Monday week, the business may be postponed to a further day. But I would by no means consent to lose sight of it for so long a period as from now till May.

Mr. JACKSON.—If the members of this body had known the plan in contemplation, and they had had an opportunity of consulting their constituents on the subject, then, I venture to say, this demon of speculation would not have extended its baleful influence over the remote parts of the Union. It arose and seized on us by surprise, advantages are taken without any warning, and such as cannot but exasperate. But, sir, waiving all these reflections, let us recollect that the State of North Carolina forms a part of this Union; this measure is to affect her, as well as the States who are represented on this floor. Shall we then proceed without them? Her citizens are indubitably as much concerned in the event as others, and will you bind her in a case of this importance, when she has not a single Representative within these walls? If no other consideration can induce gentlemen to defer this business, deference to a sister State who has so lately acceded to the Union ought. But, in addition to this, I contend that the State Legislatures ought to be consulted; and I declare myself, that I shall not know how to vote until I learn the sense of my constituents. If we consent to this proper and reasonable delay, our constituents will be prepared for our decisions, and a stop will be put to the speculation; or if any man burns his fingers, which I hope to God, with all the warmth of a feeling heart, they may, they will only have their own cupidity to blame. The people will then generally remain satisfied, under the general assurance, that Congress will pursue pro-

per measures for the support of public credit, and little or no evil can be apprehended; but much substantial good may arise from a delay of a few months.

Mr. STONE had no objection to entering into a conversation on this subject on Monday week; but he did not expect the House would pretend to decide the momentous business till some time after. Many principles and terms in the report are entirely new, at least they have never yet appeared in the public papers as subjects of discussion, and of consequence the public mind has not been led to any satisfactory conclusion, by a systematic chain of reasoning; and he believed that much depended upon the unanimity with which these terms and principles are received, and what is the consent of the understanding of the community. He could wish to know particularly the opinion of the people of the State of Maryland, and in general, the sentiments of the whole Continent; because that opinion might have a salutary influence upon the decision of the House.

He owned himself surprised, and not a little pained, to hear an idea expressed that they ought to be in a hurry about this business. If the propositions produced by the Secretary of the Treasury were to make the conditions of America better, or were to bring any great sums into our Treasury, he would be with the gentlemen, and vote for adopting them as soon as possible; but, in his opinion, this would not be accomplished until either the active resources of this country were larger, or the debts smaller. Then, why should we be in a hurry to adopt a plan that avowedly had for its object an increase of the national debt, without any addition to the means which the Government already possesses, and which she may apply more successfully, perhaps, to her own particular occasions.

Mr. SHERMAN hoped the business would be conducted in such a way as to be concluded before the end of the present session. As to obtaining the sense of the State Legislatures, he did not think that necessary. The people appointed the members of this House, and their situation enabled them to consult and judge better what was for the public good, than a number of distinct parts, void of relative information, and under the influence of local views. He supposed that Congress contained all the information necessary to determine this or any other national question. As to the first observation of the gentleman from Georgia, that speculations had been carried on to a great extent, he had only to observe, that this had been the case from the time when the public securities were first issued, and he supposed they would continue until the holders were satisfied with what was done to secure the payment.

As to the State debts, it was a subject which he apprehended would not be ultimately decided, till the sense of the people is generally known; and on this occasion, it might be well to be acquainted with the sense of the State Le-

JANUARY 28, 1790.]

Secretary of the Treasury's Report.

[H. OF R.]

gislatures; he hoped, therefore, that it would be the case. But with regard to the foreign and domestic continental debts, he did not hesitate to say, it was proper for Congress to take them into consideration as speedily as possible; for the sooner they are discussed, the sooner will the House make up their judgment thereon. He believed they were possessed of all the facts they could be possessed of, and therefore any great delay was improper. He was in favor of making the business the order of the day for Monday week.

Mr. HARTLEY.—If we mean to adhere to the principle we countenanced at the last session, we shall take up this business at an early day. If we mean to lose that confidence which the Government has already acquired, we shall consent, perhaps, to postpone it to the time moved for by the honorable gentleman from Georgia. But I trust we are decided in our endeavors to revive our drooping credit, and that we shall steadily and unweariedly pursue the open and liberal policy which is its firmest prop in those times of exigence which inevitably occur in the affairs of nations. Whether we go through and determine the great question of discrimination, and all the other questions arising out of the Secretary's report, in a week or two, is not so material; but in order to be consistent with ourselves, in attaining the object we have contemplated, we ought undoubtedly to proceed to the investigation.

Mr. SEDGWICK.—I believe the House at present have not come to a conclusion in their own opinion, on the various circumstances which is necessary to be attended to in the report of the Secretary of the Treasury, therefore, I think some delay is necessary; but it should be as early a day as we could act upon it understandingly. The ardent expectations of the people on this subject want no other demonstration than the numerous body of citizens assembled within these walls.* And while the public expectation is kept thus alive, and in suspense, gentlemen cannot but suppose designs will be framed and prosecuted that may be injurious to the community. For, although I do not believe that speculation, to a certain degree, is baneful in its effects upon society, yet, when it is extended too far, it becomes a real evil, and requires the administration to divert or suppress it. If the capital employed in merchandise is taken from that branch of the public interest, and employed in speculations no way useful in increasing the labor of the community, such speculation would be pernicious. The employment of the time of merchants in this way, in addition to the employment of their capital, is a serious and alarming circumstance. A spirit of gambling is of such evil tendency, that every legislative endeavor should be made to suppress it. From these considerations, I take it, Mr. Speaker, that there are two things very evident; first, that the postponement should be

so long as to enable us to enter upon the task with understanding; and that this pernicious temper, or spirit of speculation, should be counteracted at as early a period as can possibly take place.

If the object of the gentleman from Georgia is to destroy this phrensy which has taken hold of men, and is so destructive of industry and morals, he should move for as early a day as should be consistent with his other principle; but by no means ought he to advocate a period so distant as the month of May.

Mr. GERRY.—I am a friend to the postponement, Mr. Speaker, though not for so long a time as the gentleman from Georgia proposes. It will be agreed, on all hands, that Public Credit is the main pillar on which this Government is to stand; but so embarrassed are our finances, that they require both time and consideration for their due arrangement. We have already done something towards attaining this object. We have organized a Department in such a way as we judged most likely to bring the business into a system; and the Executive officer has selected a character, whom, it is presumable, he supposed was the person that best understood the subject of any citizen of the United States. This gentleman was called upon, expressly, by the House, at their last session, to consider this very important and extensive subject;—he was called upon at a time when the period for his investigation was rather circumscribed, and himself but just seated in his office. But yet that gentleman has prepared and reported a plan for the support of Public Credit. Undoubtedly he has bestowed upon it all the attention in his power; but as we have had this report but a very few days in our hands, it therefore requires that we should have further time for consideration, as we are ultimately to decide thereon. But, in addition to this, there has been the accession of the State of North Carolina to the Union since, and she is not yet represented on this floor. I think, until her members arrive, it will be indelicate, if not unjust, to enter upon a question so momentous, and in which she has particularly interested herself, by a declaration with respect to the consolidation of the State debts.

With respect to the suppression of speculation, I do not conceive that possible, by either a longer or shorter postponement. Does any gentleman expect, while we have a public debt, to prevent speculation in our funds? If they do, they expect to accomplish what never was effected by any nation, nor in my opinion, ever will. But if they could accomplish it, they would do an injury to the community; for speculation gives a currency to property that would lie dormant; all public debts would hereafter be contracted on terms ruinous to the debtors. As to the policy of speculation, I doubt whether the speculations of foreigners in our funds is not rather advantageous than disadvantageous to the community. If we look abroad, and judge by comparative reasoning, we shall be led to be-

* The galleries were unusually crowded.

H. OF R.]

Secretary of the Treasury's Report.

[JANUARY 28, 1780.]

lieve that nations derive great advantages from being possessed of the money of foreigners; they not only endeavor to acquire it by direct, but also by indirect loans. During the late war, the Dutch held 40 or 50,000,000 sterling, in the funds of Great Britain, and she was sensible of the benefit. The speculations of individuals have perhaps been of the greatest advantage to those who held public securities, by giving a circulation to the certificates. Hence it has been thought, that a public debt is a source of great emolument to a nation, by extending its capital, and enlarging the operations of productive industry.

When the war first commenced, France supposed, by detaching her colonies from Britain, she would be able to make her own terms with her. In the contest, Great Britain increased her national debt to an astonishing degree; and when all Europe expected to see her sink beneath the burthen, she stood firm and fixed as ever, with an increase of strength. The influx of specie, after the peace, to purchase into her funds, furnished the means for the expansion of her commerce and manufactures, and rather made the revolution an advantage than a disadvantage to her. However, be these matters as they may, we have not now to deliberate whether we shall acquire a national debt; it is already done, and we must either provide for the same, or declare our unwillingness or disability to do so; we do not mean to do either of the last, therefore we must prepare to do the first; but then it ought to be delayed until we are all prepared to enter upon it. From the consideration of the arrival of the members from North Carolina, I move to postpone it till the month of March.

MR. JACKSON.—I know, sir, that there is, and will be, speculations in the funds of every nation possessed of public debt: but they are not such as the present report has given rise to, by the advantage those at the seat of Government obtained of learning the plan contemplated by the principal of the Treasury Department, before others had heard a word thereof. If we had either received this report privately, or not sat in a large city, then, sir, none of these speculations would have arisen, because Congress could have devised means of diffusing the information so generally as to prevent any of its ill effects. Under these impressions, I am led to express my ardent wish to God, that we had been on the banks of the Susquehanna or Potomac, or at any place in the woods, and out of the neighborhood of a populous city; all my unsuspecting fellow-citizens might then have been warned of their danger, and guarded themselves against the machinations of the speculators. To some gentlemen, characters of this kind may appear to be of utility; but I, sir, view them in a different light; they are as rapacious wolves seeking whom they may devour, and preying upon the misfortunes of their fellow-men, taking an undue advantage of their necessities. This, sir, is the sentiment of my

heart, and I will always use its language. I say, sir, whatever might be the happy effects of speculations in other countries, it has had the most unhappy and pernicious effects in this. Look at the gallant veteran, who nobly led your martial bands in the hour of extreme danger, whose patriotic soul acknowledged no other principle than that his life was the property of his country, and who evinced it by his repeated exposures to a vengeful enemy. See him deprived of those limbs which he sacrificed in your service! And behold his virtuous and tender wife sustaining him and his children in a wilderness, lonely, exposed to the arms of savages, where he and his family have been driven by this useful class of citizens, these speculators, who have drained from him the pittance which a grateful country had afforded him, in reward for his bravery and toils, and a long catalogue of merits. Nor is their insatiable avarice yet satisfied, while there remains a single class of citizens who retain the evidence of their demands upon the public; the State debts are to become an object for them to prey upon, until other citizens are driven into scenes of equal distress. Is it not the duty of the House to check this spirit of devastation? It most assuredly is. If by the ill-timed promulgation of this report, we have laid the foundation for the calamity, ought we not to counteract it? This may be done by postponing the subject, until the sense of the State Legislatures is obtained with respect to their particular debts. Then these men may send off other vessels to countermand their former orders; and, perhaps, we may yet save the distant inhabitants from being plundered by these harpies.

With respect to the final settlements, I said before, and I feel now, that my mind is almost made up in favor of some discrimination, by reason of the speculation which has been carried on; but I wish for delay, if it be only for the sake of waiting the arrival of the Representatives of North Carolina, whose State has made an express declaration relative to the assumption of the State debts; her single voice, to be sure, ought not to govern the whole continent, but her sense ought to be declared; now, this cannot be obtained before April or May: Nor will the honest soldier or citizen, who fought your battles, or furnished you supplies, think hard of this short delay, when they are satisfied, that it is the intention of Congress to provide for them as soon as the collected voice of the Union can be procured. And no man can think that the other class of certificate holders will have cause to complain, because no man supposes they will fall in price; but if they did, the advantageous bargains they have made by their procurement will bear such a diminution without doing a real injury; on the contrary, they will nevertheless make fortunes by the events.

MR. BOUDINOT applauded every gentleman who spoke his sentiments freely; it was the

JANUARY 28, 1790.]

Secretary of the Treasury's Report.

[H. OF R.]

performance of the intention with which they were sent here, and the most likely way of understanding a subject, and coming to an amicable and just conclusion thereupon. But he should be sorry if, on this occasion, the House should decide, that speculations in the funds are violations of either the moral or political law. A Government hardly exists in which such speculation is disallowed; but it must, at the same time, be admitted, that every thing of this kind has proper bounds, which may be too small or too great. If you will not permit your creditor to transfer his debt, you deprive the Commonwealth of a great part of her credit and capital: on the other hand, if speculation is carried on to such a degree, as to divert the funds of productive labor into the pursuit of visionary objects, or destroys them, the community clearly loses the use of so much of its capital, which is a considerable evil. He agreed with gentlemen, that the spirit of speculation had now risen to an alarming height; but the only way to prevent its future effect, is to give the public funds a degree of stability as soon as possible.

He agreed that it was a desirable thing, that every part of the Continent should be represented; but he did not think that the absence of North Carolina would warrant them to induce an accession of expense upon Massachusetts and all the other States. He did not, however, wish, or expect, that the decision would take place on Monday week; but he expected the members of the House would gain more understanding and information on the subject, from a conversation and exchange of sentiments on this floor, in a day, than they would by a month's study in their chambers.

Mr. PAGE wished to go into a Committee of the whole upon the subject, pursuant to the order of the day, nor did he think it would be hurrying on the business improperly, because the report was so voluminous as to require a considerable length of time for consideration; and this might be commenced to-day, without a decision for some time after. He conceived the time of this day would be well spent in reading it; but if gentlemen were unprepared to enter upon it, he should not oppose a small delay; but to put it off till either March or May, would be highly improper; such a proceeding would give a fatal stab to our reviving credit. As to preventing the evils arising from speculation, that he believed was impossible, while mankind are at liberty to dispose of or acquire property: Nor did he think it could have been prevented by observing that secrecy which the gentleman from Georgia seems to approve; on the other hand, it might have given rise to a more extended and pernicious scheme of speculation; he hoped to see all the councils of this country conducted on open, undisguised, and liberal principles. He thought there was no room for the charge of surprise, because the House had manifested its disposition to exert itself in support of public credit at their last

session; this had been noticed in the President's speech, and in the address of the House; and he conceived a long delay would imply that degree of neglect of their promise, which would give a deadly wound to future confidence.

Mr. SENEY said, in his opinion, the subject was too momentous, and of too great a magnitude to be hurried through the House; and that a sufficient length of time ought to be allowed for considering it in its various parts, in order to form a just conclusion on its merits. The members of this House may derive information from the discussion it may receive in the public prints, and from conversation with their fellow-citizens; whereas, if the House enter into a discussion before the subject is well understood, a great deal of time would be unnecessarily expended; he was therefore in favor of allowing a reasonable time for consideration, which he supposed to be about four or five weeks.

Mr. PAGE hoped, if the subject was postponed till a distant day, that the House would immediately adjourn to the same; for if the pretence of postponement, namely, to learn the sentiments of their fellow-citizens, was well founded, it was their duty to go home and learn them.

Mr. SENEY said, that it was not his motive for postponing.

Mr. PAGE said, perhaps it was not; but it was an argument held out by other gentlemen, and if it was of any weight, the House ought to adjourn until they could know the voice of the Continent. If the motion to a distant day prevailed, he would move an adjournment for the same period; and this would be a more becoming measure than to continue sitting here, spending the public money, when they had little or nothing of importance to do; for almost all the business now before them derived its importance from the connexion it had with the public faith and honor.

Mr. SENEY.—If Congress had no other business, or that business was unimportant, I should not be unwilling to join in the adjournment, mentioned by the gentleman from Virginia; but as Congress has other important business before them, our time, I presume, can be well employed in completing it in the interval, which I wish to be allowed for considering this.

I believe that the resolution entered into by the House at their last session has been mistaken by gentlemen, who urge, that we stand pledged to take up this business, and make it the first object of our attention. I conceive, sir, the words of the resolution contain nothing of that import. All that we said was, that we considered an adequate provision for the support of the public credit as a matter of high importance to the nation; and authorized the Secretary to prepare a plan for that purpose. All this has been done; but it does not follow we are to decide without time for deliberation.

Mr. GERAY said there was sufficient business before the Legislature to employ them, with all

H. of R.]

On Regulating Exports.

[JANUARY 29, 1790.]

their industry, until the time he had mentioned for this business to be postponed. If some gentlemen are so well ascertained of the principles and consequences of the report, as to be able to decide at this time, they ought to extend an indulgence to the members of inferior capacity; for his part, he did not yet comprehend the whole subject. He was not afraid of injuring the community by increasing the spirit of speculation, if such a spirit did injury at all; because the business was now carried on between speculator and speculator; it was they only who buy and sell certificates at the present day: he believed there were very few instances in which an original holder would now be inclined to sell; a little delay, therefore, can do no injury, but coming to a hasty and sudden conclusion may entail very considerable inconveniences on posterity.

Mr. PAGE called for a division on the question, and the first part, viz. that the House agree to postpone the order of the day, was carried in the affirmative. The first Monday in March was then taken, and the House divided, ayes 14, nays 38.

Mr. LEE then moved Monday fortnight; but this being decided out of order, inasmuch as after a division of the question has been called, and the first part put, it had been the practice of the House to preclude debate or amendment.

The question was then taken on next Monday week, and carried in the affirmative.

RHODE ISLAND.

A message from the President of the United States was received, communicating the act of Rhode Island for calling a convention: also, a letter from the Governor of that State to the President, praying a further suspension of the impost, tonnage, and collection laws. These papers were referred to a committee, consisting of Messrs. BROWN, BENSON, and COLES.

Mr. BURKE brought in a bill for securing to authors and proprietors an exclusive right to their respective writings.

Mr. WHITE moved that a committee be appointed to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of the said State, on Continental and State establishments, in the cession made by the said State to the United States, of the territory northwest of the river Ohio, and to report the same to the House.

MESSRS. WHITE, MUHLBERG, and SENAY, were appointed a committee accordingly.

The House took up Mr. SMITH's motion respecting the unfinished business, and, after some consideration, it was ordered to lie on the table.

FRIDAY, JANUARY 29.

The SPEAKER laid before the House a letter from the Treasurer of the United States, enclosing accounts of expenditures and disbursements from the time of his coming into office to the 31st December last, which were read and

referred to a Select Committee, consisting of Messrs. SMITH, of South Carolina, MOORE, SMITH, of Maryland, CLYMER, and VAN RENSSELAER.

A message was received from the Senate, informing the House that the Senate had passed a bill for the punishment of certain crimes against the United States, to which they requested the concurrence of the House.

Mr. LIVERMORE moved that a committee be appointed to bring in a bill for the appropriation of such sum or sums of money as may be necessary for the civil list, and the incidental charges of the present year.

The motion was adopted, and Messrs. LIVERMORE, SYLVESTER, and LEE, were appointed.

ON REGULATING EXPORTS.

Mr. SEDGWICK wished to call the attention of the House to a plan for regulating the exports of the United States, in order to prevent those frauds which are practised at present, and which tend to depreciate the value of our staple commodities when introduced into other countries. Among the variety of articles which might become objects of such a regulation, there was the article of beef: this had been shipped abroad, in some cases, in a state that injured the reputation of the United States. He thought the Government ought to extend its cares to objects of this importance. But it might be a question, whether the Constitution authorized the Government to do so. For his part, he thought the Constitution warranted the exercise of the power, under the clause giving to Congress the general power of regulating commerce with foreign nations, and among the several States. If the contrary sentiment prevailed, he supposed it would arise from the exception made to this power, by implication, in that article which declared that no State shall, without the consent of Congress, lay any impost, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all such duties shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision or control of Congress. But he did not suppose any construction of this article would operate to defeat the measure he had in contemplation, whether another clause, namely, that prohibiting the National Government from laying any tax or duty on exports, extended so far is also doubtful; but he was of opinion that the business might be accomplished without laying any tax or duty thereon; but the former article seems to point out what was contemplated by the framers of the constitution. The giving to Congress a controlling power, expressly over the State laws, supposes that they had a power existing in them for the same purpose. However, he would not enter into an investigation of the subject at this time, when his object was merely to bring it forward, in order to lie on the table for deliberation. He thereupon moved the following:

FEBRUARY 1, 1790.]

System of Bankruptcy.

[H. OF R.]

Resolved, That a committee be appointed to bring in a bill or bills to encourage the exports of the United States, and to guard against frauds in the same.

Laid on the table.

Mr. SMITH, of South Carolina, introduced a resolution to this purport, that the Judges of the Supreme Court be directed to report to the House a plan for regulating the Processes in the Federal Courts, and the fees to the Clerks of the same. Laid on the table.

A motion to take up, for the third reading, the bill providing the means of intercourse between the United States and foreign nations, was, after a short discussion, negatived.

MONDAY, February 1.

GEORGE GALE, from Maryland, appeared and took his seat.

The bill for defining and punishing certain crimes against the United States, was read a second time, and made the order of the day for Friday next.

ON SECURING COPY-RIGHTS.

The order of the day being called for, the House went into a Committee of the whole on the bill for securing to authors and proprietors the copy-right of their works, Mr. BALDWIN in the chair.

The bill was read and considered by paragraphs. The committee then rose and reported the same, with amendments. The motion for recommitment was withdrawn, and the House proceeded to consider the amendments; to all of which they agreed. It was then ordered that the bill be engrossed for a third reading to-morrow.

GRANTS OF LAND TO VIRGINIA.

Mr. WHITE, from the committee appointed to examine into the measures taken by Congress respecting lands granted by the State of Virginia for the troops of that State, brought in a report, which was read.

CESSION OF WESTERN LANDS.

A message was received from the President of the United States, communicating a letter from the Governor of North Carolina, with a copy of the act of the State, ceding to the United States certain western lands therein described.

The message, with the accompanying act, were read; and on motion of Mr. SMITH, of South Carolina, referred to a committee to report thereon. The following gentlemen were appointed accordingly, Messrs. CLYMER, TUCKER, GALE, MADISON, and MATHEWS.

SYSTEM OF BANKRUPTCY.

Mr. HARTLEY moved that a committee should be appointed to bring in a bill providing for a general system of Bankruptcy in the United States.

Mr. SMITH, of South Carolina, objected to the subject being taken up immediately. The present situation of the country, he conceived,

was such as to render a general law on this subject a more intricate and perplexing business than the gentleman was aware of. He thought it most prudent to defer the business till the public debt should be funded, and banks established, without which it was difficult to conceive how arrangements could be made to facilitate the payment of debts, or the operation of such a law. He said that the insolvent acts in the several States would answer for the present.

Mr. HARTLEY said, the Constitution required that an act should be passed on the subject; but he did not wish to hurry it through the House the present session. He was desirous, however, that some steps should be taken to show that Congress had the credit of the country in view.

Mr. SEDGWICK adduced similar observations to those of Mr. SMITH, of South Carolina, and adverting to the present state of that country from whence many of our precedents are derived, said, that since the adoption of their present system of bankruptcy, that nation had enjoyed a degree of tranquillity and domestic happiness unknown for a century before. But, recurring to the obvious difference in the circumstances of the two countries, with respect to commercial transactions within that kingdom, he said, that, in his opinion, we were not at present prepared to go fully into the subject, or to adopt similar regulations; when there appeared to him to be a greater facility in recovering debts, he would not be backward in voting for the measure.

Mr. HARTLEY consented that the motion should lie on the table.

OF PROVING PUBLIC RECORDS FROM OTHER STATES.

Mr. SMITH, of South Carolina, then recited the following clause in the Constitution, viz: "Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof;" and moved, that a committee be appointed to bring in a bill or bills, pursuant thereto; this motion being adopted, the following gentlemen were appointed, Messrs. PAGE, JACKSON, and THATCHER.

INVALID PENSIONERS.

Mr. HEISTER moved, that a committee be appointed to bring in a bill or bills, making provision for the Invalid Pensioners of the United States; this being adopted, Messrs. HEISTER, PARTRIDGE, and HATHORN, be appointed.

COMMITTEE OF ELECTIONS.

Mr. WHITE moved that a committee of elections be appointed; which consisted of Messrs. AMES, SHERMAN, BENSON, STONE, PAGE, WYNKOOP, and WHITE.

NORTH CAROLINA.

A message was received from the Senate, with a bill for giving effect to the laws of the United

H. OF R.]

Census of the Union.

[FEBRUARY 2, 1790.]

States, in the State of North-Carolina, returned with amendments, in which the Senate requested the concurrence of the House; these amendments were agreed to, except one amendment only.

By the amendments of the Senate to the foregoing act a clause is introduced for the purpose of further suspending the operation of the tonnage act, respecting the vessels belonging to Rhode Island, till the first day of April next.

TUESDAY, February 2.

THEODORE BLAND, from Virginia, appeared and took his seat.

The engrossed bill for securing the copy-right of books to authors and proprietors was read the third time; but, on motion, was recommitted to Mess. BOUDINOT, SHERMAN, and SYLVESTER.

CENSUS OF THE UNION.

MR. FOSTER, from the Committee to whom was recommitted the bill providing for the enumeration of the inhabitants of the United States, reported the bill with amendments; and the House proceeded to the consideration thereof.

MR. LIVERMORE apprehended this plan was too extensive to be carried into operation, and divided the people into classes too minute to be readily ascertained. For example, many inhabitants of New Hampshire pursued two, three, or four occupations, but which was the principal one depended upon the season of the year, or some other adventitious circumstance; some followed weaving in the spring and summer, but the making of shoes was the most predominant in the fall and winter; under what class are these people to be thrown, especially if they joined husbandry and carpenter's work to the rest? He was confident the distinction which the gentleman wished to make could not be performed; he was therefore against adding additional labor, and consequently, incurring additional expense, whether the work was executed or not. Besides this, he apprehended it would excite the jealousy of the people; they would suspect that Government was so particular, in order to learn their ability to bear the burthen of direct or other taxes, and under this idea, they may refuse to give the officer such a particular account as the law requires, by which means you expose him to great inconvenience and delay in the performance of his duty.

MR. SEDGWICK understood, when the bill was recommitted, it was intended to specify every class of citizens, into which the community was divided, in order to ascertain the actual state of the society. Now, he had to ask, why it was not extended further? He thought the learned professions should be returned, as well as the others, and would furnish as grateful information as the return of any other. The state of society could be ascertained, perhaps, in some degree, from observing these proportions.

MR. MADISON.—If the object to be attained by this particular enumeration be as important in the judgment of this House, as it appears to

my mind, they will not suffer a small defect in the plan to defeat the whole. And I am very sensible, Mr. Speaker, that there will be more difficulty attendant on the taking the census, in the way required by the constitution, and which we are obliged to perform, than there will be in the additional trouble of making all the distinctions contemplated in the bill. The classes of people most troublesome to enumerate, in this schedule, are happily those resident in large towns, as the greatest number of artisans live in populous cities and compact settlements, where distinctions are made with great ease.

I take it, sir, that in order to accommodate our laws to the real situation of our constituents, we ought to be acquainted with that situation. It may be impossible to ascertain it as far as I wish; but we may ascertain it so far as to be extremely useful, when we come to pass laws, affecting any particular description of people. If gentlemen have any doubts with respect to its utility, I cannot satisfy them in a better manner, than by referring them to the debates which took place upon the bills intended collaterally to benefit the agricultural, commercial, and manufacturing parts of the community. Did they not wish then to know the relative proportion of each, and the exact number of every division, in order that they might rest their arguments on facts, instead of assertions and conjectures? Will any gentleman pretend to doubt but our regulations would have been better accommodated to the real state of the society than they are? If our decisions had been influenced by actual returns would they not have been varied, according as the one side of the other was more or less numerous? We should have given less encouragement in some instances, and more in others; but in every instance, we should have proceeded with more light and satisfaction.

The gentleman from Massachusetts, (MR. SEDGWICK) has asked, why the learned professions were not included: I have no objection to giving a column to the general body. I think the work would be rendered more complete by the addition, and if the decision of such a motion turned upon my voice, they shall be added. But it may nevertheless be observed, that in such a character they can never be objects of legislative attention or cognizance. As to those who are employed in teaching and inculcating the duties of religion there may be some indelicacy in singling them out, as the General Government is proscribed from interfering, in any manner whatever, in matters respecting religion; and it may be thought to do this, in ascertaining who, and who are not ministers of the Gospel. Conceiving the extension of the plan to be useful, and not difficult, I hope it may meet the ready concurrence of this House.

MR. PAGE thought this particular method of describing the people, would occasion an alarm among them; they would suppose the Government intended something, by putting the Union to this additional expense, beside gratifying an idle curiosity; their purposes cannot be sup-

FEBRUARY 3, 1790.]

Rule of Naturalization.

[H. OF R.]

posed the same as the historian's or philosopher's—they are statesmen, and all their measures are suspected of policy. If he had not heard the object so well explained on this floor, as one of the people he might have been jealous of the attempt, and as it could serve no real purpose, for he contended, if they were now acquainted with the minutia, they would not be benefited by it. He hoped the business would be accomplished in some other way.

Mr. MADISON thought it was more likely, that the people would suppose the information was required for its true object, namely to know in what proportion to distribute the benefits resulting from an efficient General Government.

The schedules were now agreed to by the House, and the bill, with an alteration respecting the allowance to the Marshal of Maine, was ordered to be engrossed.

A message from the Senate, with the bill for giving effect to the laws of the United States in the State of North Carolina, was received: whereupon, the said bill was ordered to be enrolled, and Messrs. GILMAN and WHITE were appointed a committee for that purpose.

WEDNESDAY, February 3.

The engrossed bill for enumerating the inhabitants of the United States was read the third time, and then ordered to lie on the table.

RULE OF NATURALIZATION.

The House then went into a Committee of the whole on the bill establishing a uniform rule of Naturalization. Mr. BALDWIN in the Chair. The first clause enacted, that all free white persons, who have, or shall migrate into the United States, and shall give satisfactory proof, before a magistrate, by oath, that they intend to reside therein, and shall take an oath of allegiance, *and shall have resided in the United States for one whole year*, shall be entitled to all the rights of citizenship, except being capable of holding an office under the State or General Government, which capacity they are to acquire after a residence of two years more.

Mr. TUCKER moved to strike out the words "and shall have resided within the United States for one whole year;" because he conceived it the policy of America to enable foreigners to hold lands, in their own right, in less than one year; he had no objection to extending the term, entitling them to hold an office under Government, to three years. In short, the object of his motion was, to let aliens come in, take the oath, and hold lands without any residence at all.

Mr. HARTLEY said, he had no doubt of the policy of admitting aliens to the rights of citizenship; but he thought some security for their fidelity and allegiance was requisite besides the bare oath; that is, he thought an actual residence of such a length of time as would give a man an opportunity of esteeming the Government from knowing its intrinsic value, was essentially necessary to assure us of a man's

becoming a good citizen. The practice of almost every State in the Union countenanced a regulation of this nature; and perhaps it was owing to a wish of this kind, that the States had consented to give this power to the General Government. The terms of citizenship are made too cheap in some parts of the Union; to say, that a man shall be admitted to all the privileges of a citizen, without any residence at all, is what can hardly be expected.

The policy of the old nations of Europe has drawn a line between citizens and aliens: that policy has existed to our knowledge ever since the foundation of the Roman Empire; experience has proved its propriety, or we should have found some nation deviating from a regulation inimical to its welfare. From this it may be inferred, that we ought not to grant this privilege on terms so easy as is moved by the gentleman from South Carolina. If he had gone no further in his motion than to give aliens a right to purchase and hold lands; the objection would not have been so great; but if the words are stricken out that he has moved for, an alien will be entitled to join in the election of your officers at the first moment he puts his foot on shore in America, when it is impossible, from the nature of things, that he can be qualified to exercise such a talent; but if it was presumable that he was qualified by a knowledge of the candidates, yet we have no hold upon his attachment to the Government.

Mr. SHERMAN thought that the interests of the State where the emigrant intended to reside ought to be consulted, as well as the interests of the General Government. He presumed it was intended by the Convention, who framed the Constitution, that Congress should have the power of naturalization, in order to prevent particular States receiving citizens, and forcing them upon others who would not have received them in any other manner. It was therefore meant to guard against an improper mode of naturalization, rather than foreigners should be received upon easier terms than those adopted by the several States. Now, the regulation provided for in this bill, entitles all free white persons, which includes emigrants, and even those who are likely to become chargeable. It certainly never would be undertaken by Congress to compel the States to receive and support this class of persons; it would therefore be necessary that some clause should be added to the bill to counteract such a general proposition.

Mr. PAGE was of opinion, that the policy of European nations and States respecting naturalization, did not apply to the situation of the United States. Bigotry and superstition, or a deep-rooted prejudice against the Government, laws, religion, or manners of neighboring nations had a weight in that policy, which cannot exist here, where a more liberal system ought to prevail. I think, said he, we shall be inconsistent with ourselves, if, after boasting of having opened an asylum for the oppressed of all

nations, and established a Government which is the admiration of the world, we make the terms of admission to the full enjoyment of that asylum so hard as is now proposed. It is nothing to us, whether Jews or Roman Catholics settle amongst us; whether subjects of Kings, or citizens of free States wish to reside in the United States, they will find it their interest to be good citizens, and neither their religious nor political opinions can injure us, if we have good laws, well executed.

Mr. BOUDINOT was against striking out the words, because he would rather choose to alter it from one year to two years, than strike out all that respected the capacity of an alien to be elected into any office. He conceived, that after a person was admitted to the rights of citizenship, he ought to have them full and complete, and not be divested of any part.

Mr. WHITE noticed the inconvenience which would result from permitting an alien to all the rights of citizenship, merely upon his coming and taking an oath that he meant to reside in the United States. Foreign merchants and captains of vessels might by this means evade the additional duties laid on foreign vessels; he thought, therefore, if the words were struck out, that another clause ought to be added, depriving persons of the privilege of citizenship, who left the country and staid abroad for a given length of time.

Mr. LAWRENCE was of opinion, that Congress had nothing more to do than point out the mode by which foreigners might become citizens. The constitution had expressly said how long they should reside among us before they were admitted to seats in the Legislature; the propriety of annexing any additional qualifications is therefore much to be questioned. But this bill is not confined to the qualifications of the General Government only, it descends to those of the State Governments; it may be doubly questioned how far Congress has the power to declare what residence shall entitle an alien to the right of a seat in the State Legislatures.

The reason of admitting foreigners to the rights of citizenship among us is the encouragement of emigration, as we have a large tract of country to people. Now, he submitted to the sense of the committee, whether a term, so long as that prescribed in the bill, would not tend to restrain rather than encourage emigration? It has been said, that we ought not to admit them to vote at our elections. Will they not have to pay taxes from the time they settle amongst us? And is it not a principle that taxation and representation ought to go hand and hand? Shall we then restrain a man from having an agency in the disposal of his own money? It has been also observed, that persons might come and reside amongst us for some time, and then leave the country; he did not doubt that such might be the case, but it was not presumable, that after they had once taken an oath that they meant to reside here,

and had become citizens, that they would return as soon as the occasion which required their absence had terminated.

Mr. MADISON.—When we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses. It is no doubt very desirable that we should hold out as many inducements as possible for the worthy part of mankind to come and settle amongst us, and throw their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir, it is to increase the wealth and strength of the community; and those who acquire the rights of citizenship, without adding to the strength or wealth of the community are not the people we are in want of. And what is proposed by the amendment is, that they shall take nothing more than an oath of fidelity, and declare their intention to reside in the United States. Under such terms, it was well observed by my colleague, aliens might acquire the right of citizenship, and return to the country from which they came, and evade the laws intended to encourage the commerce and industry of the real citizens and inhabitants of America, enjoying at the same time all the advantages of citizens and aliens.

I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States.

It may be a question of some nicety, how far we can make our law to admit an alien to the right of citizenship, step by step; but there is no doubt we may, and ought to require residence as an essential.

Mr. SMITH, of South Carolina, thought some restraints proper, and that they would tend to raise the Government in the opinion of good men, who are desirous of emigrating; as for the privilege of electing, or being elected, he conceived a man ought to be some time in the country before he could pretend to exercise it. What could he know of the Government the moment he landed? Little or nothing: how then could he ascertain who was a proper person to legislate or judge of the laws? Certainly gentlemen would not pretend to bestow a privilege upon a man which he is incapable of using?

How far the Government may admit a man to the rights of citizenship by progression, is called in question. The Constitution vests in Congress the power to establish a uniform rule of naturalization; it is not various rules they have the power to make, but one complete uniform rule; now, is it one rule, if a man is admitted progressively? It is; because it is only part of a rule, that a man shall be entitled to certain privileges at the end of one year's residence. Another part is to give more in two

FEBRUARY 3, 1790.]

Rule of Naturalization.

[H. OF R.]

years, and the whole is completed at the end of three years. The naturalization laws of Carolina proceed upon this plan: they do not there conceive it proper to give the complete right at once; they give citizenship for certain purposes at first, extending them afterwards as the person is fitted to receive them.

The intention of the present motion is, to enable foreigners to come here, purchase and hold lands; but this will go beyond what the mover has required, and therefore it will be better to draught a separate clause, admitting them to purchase and hold lands upon a qualified tenure and pre-emption right, than thus admit them at once to interfere in our politics. The quality of being a freeholder is requisite, in some States, to give a man a title to vote for corporation and parish officers. Now, if every emigrant who purchases a small lot, but for which perhaps he has not paid, becomes in a moment qualified to mingle in their parish or corporation politics, it is possible it may create great uneasiness in neighborhoods which have been long accustomed to live in peace and unity.

Mr. HARTLEY said, that the subject had employed his thoughts for some time, and that he had made up his mind in favor of requiring a term of residence. The experience of all nations, and the Constitution of most of the States induced the same opinion. An alien has no right to hold lands in any country, and if they are admitted to do it in this, we are authorized to annex to it such conditions as we think proper. If they are unreasonable, they may defeat the object we have in view, but they have no right to complain; yet, considering the circumstances of this country, he was favorable to easy terms of admission, because, he thought, it might be some inducement to foreigners to come and settle among us. It has been remarked, that we must admit those whom we call citizens to all the rights of citizenship at once. This opinion, he presumed, was not well founded; the practice of this country in no instance warrants it. The Constitutions of the several States admit aliens to the privilege of citizenship, step by step; they generally require a residence for a certain time, before they are admitted to vote at elections; some of them annex to it the condition of payment of taxes and other qualifications; but he believed none of the States render a foreigner capable of being elected to serve in a legislative capacity, without a probation of some years. This kind of exception is also contemplated in the Constitution of the United States. It is there required, that a person shall be so many years an inhabitant before he can be admitted to the trust of legislating for the society. He thought, therefore, that this part of the objection is not well supported.

With respect to the policy of striking out the words altogether from the clause, and requiring no residence before a man is admitted to the rights of election, the objections are obvious. If, at any time, a number of people emigrate

into a seaport town; for example, from a neighboring colony into the State of New York, will they not, by taking the oath of allegiance, be able to decide the fate of an election contrary to the wishes and inclinations of the real citizens? And are gentlemen disposed to throw such an undue influence into the hands of foreigners? Besides, they will acquire a capacity of evading your revenue laws, intended for the encouragement of the citizens. I have mentioned this example, and might enumerate many others, to point out the impropriety of this policy; but presuming them to be within every gentleman's knowledge, I shall not enlarge upon it.

With respect to the propriety of enabling foreigners to acquire and hold lands on a qualified tenure, I have no objection to such a clause.

Mr. WHITE doubted whether the constitution authorized Congress to say on what terms aliens or citizens should hold lands in the respective States; the power vested by the Constitution in Congress, respecting the subject now before the House, extend to nothing more than making a uniform rule of naturalization. After a person has once become a citizen, the power of Congress ceases to operate upon him; the rights and privileges of citizens in the several States belong to those States; but a citizen of one State is entitled to all the privileges and immunities of the citizens in the several States. Now, if any State in the Union should choose to prohibit its citizens from the privilege of holding real estates, without a residence of a greater number of years than should be thought proper by this House, they could do it, and no authority of the Government, he apprehended, could enforce an obedience to a regulation not warranted by the constitution. So, in the case of elections, if the constitution of a particular State requires four, five, or six years residence, before a man is admitted to acquire a legislative capacity, with respect to the State Government, he must remain there that length of time, notwithstanding you may declare he shall be eligible after a residence of two years; all, therefore, that the House have to do on this subject, is to confine themselves to an uniform rule of naturalization, and not to a general definition of what constitutes the rights of citizenship in the several States.

Mr. JACKSON conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to, this country, made him extremely anxious to preserve its good fame from injury. He hoped to see the title of a citizen of America as highly venerated and respected as was that of a citizen of old Rome. I am clearly of opinion, that rather than have the common class of vagrants, paupers, and other outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from

H. of R.]

Rule of Naturalization.

FEBRUARY 3, 1796.

South Carolina, should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, sir, the terms required by the bill on the table are, in my mind, too easy. I think, before a man is admitted to enjoy the high and inestimable privileges of a citizen of America, that something more than a mere residence amongst us is necessary. I think he ought to pass some time in a state of probation, and at the end of the term, be able to bring testimonials of a proper and decent behavior; no man, who would be a credit to the community, could think such terms difficult or indelicate: if bad men should be dissatisfied on this account, and should decline to emigrate, the regulation will have a beneficial effect; for we had better keep such out of the country than admit them into it. I conceive, sir, that an amendment of this kind would be reasonable and proper; all the difficulty will be to determine how a proper certificate of good behaviour should be obtained; I think it might be done by vesting the power in the grand jury or district courts to determine on the character of the man, as they should find it.

MR. PAGE.—I observed before, Mr. Chairman, that the European policy did not apply to the United States. I gave my reasons for it; they are such as have not been controverted, and I presume cannot.

With respect to the idea of excluding bad men from the rights of citizenship, I look upon it as impracticable; hard terms of admission may exclude good men, but will not keep out one of the wretches alluded to; they will come in various forms, and care little about citizenship. If we make use of the grand jury for this purpose, as proposed by the member from Georgia, (Mr. JACKSON,) we must, to complete the plan, authorize the grand jury to indict such emigrants as are unworthy to become citizens, and expel them. We must add an inquisition, and as it will not be sufficient for our views of having immaculate citizens, we should add censors, and banish the immoral from amongst us. Indeed, sir, I fear, if we go on as is proposed now, in the infancy of our republic, we shall, in time, require a test of faith and politics, of every person who shall come into these States. As to any precautions against admitting strangers to vote at elections, though I think them of less importance than some gentlemen, I object not to them; but contend, that every man, upon coming into the States, and taking the oath of allegiance to the Government, and declaring his desire and intention of residing therein, ought to be enabled to purchase and hold lands, or we shall discourage many of the present inhabitants of Europe from becoming inhabitants of the United States.

MR. LAWRENCE.—We are authorized to establish a uniform rule of naturalization; but what are the effects resulting from the admission of persons to citizenship, is another concern, and depends upon the constitutions and

laws of the States now in operation. I have therefore an objection to that part of the bill which respects the qualification of the members of the State Legislatures. But with respect to residence, before a man is admitted, I am of opinion with the gentleman from Virginia, (Mr. PAGE,) at least it may be questioned, whether any good can result from it, to compensate for the evil it may effect by restraining emigration. The gentleman has said he would admit none but such as would add to the wealth or strength of the nation. Every person who comes among us must do one or the other; if he brings money, or other property with him, he evidently increases the general mass of wealth, and if he brings an able body, his labor will be productive of national wealth, and an addition to our domestic strength. Consequently, every person, rich or poor, must add to our wealth and strength, in a greater or less degree.

Whether there shall be any particular regulation with respect to the character of the man who is to be naturalized, will be an after consideration; but I think it will be sufficient that we are able, by laws, to restrain and regulate the conduct of an individual. Nor do I believe, sir, there is any just ground of apprehension that people will come to this city, from Nova Scotia, or any other part of the world, in bodies of three or four thousand, to turn our elections, or interfere in our politics. And while I am free from these apprehensions, and suppose that the true policy of this country is to make the terms of admission easy, in order to people our country, I shall be against every measure which has a tendency to throw obstacles in the way.

MR. TUCKER had no object in making his motion, but to enable people to hold lands, who came from abroad to settle in the United States. He was otherwise satisfied with the clause, so far as it made residence a term of admission to the privilege of election; but there was a seeming contradiction in making them freeholders, and, at the same time, excluding them from the performance of duties annexed to that class of citizens. He thought the citizens had a right to require the performance of such duties, by every person who was eligible under their State laws and constitutions. Now, if the motion could be modified in any way to accomplish his object with consistency, he would cheerfully acquiesce therein.

As to the privilege of being elected to office, he was of opinion, the term of three or four years was a term sufficiently short to acquire it in; it was a much easier method of obtaining citizenship, than was practised by other nations: neither would he object to any precaution being introduced into the bill, that had a tendency to prevent the admission of bad men, if such precaution could be devised, consistent with their constitutional power, and could be carried into easy and safe execution. The mode mentioned by the gentleman from Georgia, of a recommendation by the grand jury, or district court, would throw a very great embarrassment

FEBRUARY 3, 1790.]

Rule of Naturalization.

[H. OF R.]

into the way of an emigrant's becoming a citizen; but if some more eligible mode can be devised, of making the inhabitants of the United States a select society of good moral men, he was ready to agree to it, yet he almost despaired of its being accomplished.

He had no doubt the Government had a right to make the admission to citizenship progressive, the Constitution pointed out something of this kind, by the different ages and terms of residence they annexed to the right of holding a seat in this House and in the Senate, and of being chosen President. No inhabitant can become President of the United States, unless he has been an inhabitant fourteen years; which plainly infers that he might have been a citizen for other purposes, with a shorter residence. But it goes still further, it enables Congress to dictate the terms of citizenship to foreigners, and to prevent them from being admitted to the full exercise of the rights of citizenship by the General Government; because it declares that no other than a natural born citizen, or a citizen at the time of the adoption of this constitution, shall be eligible to the office of President.

With respect to their interference with the State Governments, he believed it to be improper; and hoped, therefore, that the bill would be confined solely to the objects of the General Government.

Mr. MADISON remarked, that the arguments had extended themselves beyond the simple question before the committee, and called into view matters of considerable importance, but of which, at this time, he did not mean to give an opinion. Whether residence is, or is not, a proper quality to be attached to a citizen, is the question? In his own mind, he had no doubt but residence was a proper pre-requisite, and he was prepared to decide in favor of it.

Mr. SMITH, (S. C.) hoped the question would not be put to-day, as he wished to reflect further on the subject. A variety of observations had been made, which merited the serious attention of the committee; he would suggest another. An alien, in Great Britain, is not permitted to inherit, or hold real estate for his own use; consequently, a citizen of the United States, and a subject of Great Britain, would not be on an equal footing with respect to estates descended to them by inheritance. He thought this, and other weighty observations, would induce the House to postpone the subject till to-morrow.

Mr. SEDGWICK was against the indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure the society from being overrun with the outcasts of Europe; besides, the policy of settling the vacant territory by emigration is of a doubtful nature. He believed, in the United States, the human species might be multiplied by a more eligible and convenient mode, than what seemed to be contemplated by the motion now before the committee. He was well satisfied for himself, that there existed no absolute

necessity of peopling it in this way; and, if there was no absolute necessity, he thought Congress might use their discretion, and admit none but reputable and worthy characters; such only were fit for the society into which they were blended. The citizens of America preferred this country, because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there was at least some grounds to fear the contrary; their sensations, impregnated with prejudices of education, acquired under monarchical and aristocratical Governments, may deprive them of that zest for pure republicanism; which is necessary in order to taste its beneficence with that gratitude which we feel on the occasion. Some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain.

Mr. BURKE thought it of importance to fill the country with useful men, such as farmers, mechanics, and manufacturers, and, therefore, would hold out every encouragement to them to emigrate to America. This class he would receive on liberal terms; and he was satisfied there would be room enough for them, and for their posterity, for five hundred years to come. There was another class of men, whom he did not think useful, and he did not care what impediments were thrown in their way; such as your European merchants, and factors of merchants, who come with a view of remaining so long as will enable them to acquire a fortune, and then they will leave the country, and carry off all their property with them. These people injure us more than they do us good, and, except in this last sentiment, I can compare them to nothing but leeches. They stick to us until they get their fill of our best blood, and then they fall off and leave us. I look upon the privilege of an American citizen to be an honorable one, and it ought not to be thrown away upon such people. There is another class also that I would interdict, that is, the convicts and criminals which they pour out of British jails. I wish sincerely some mode could be adopted to prevent the importation of such; but that, perhaps, is not in our power; the introduction of them ought to be considered as a high misdemeanor.

Mr. STONE had no doubt but an alien might be admitted to the rights of citizenship, step by step; but he questioned the power of the House to say that a man shall be citizen for certain purposes, as it respects the individual State Governments; he concluded that the laws and constitutions of the States, and the constitution and laws of the United States, would trace out the steps by which they should acquire certain degrees of citizenship. Congress may point out a uniform rule of naturalization; but cannot say what shall be the effect of that naturalization, as it respects the particular States.

H. OF R.]

Rule of Naturalization.

[FEBRUARY 4, 1790.]

Congress cannot say that foreigners, naturalized under a general law, shall be entitled to privileges which the States withhold from native citizens.

Mr. BOUDINOT.—An exchange of sentiment on this floor I find always tends to throw more light on a subject than is generally to be obtained in any other way. But, as the subject is not yet fully elucidated, I shall be in favor of letting it remain undecided till to-morrow, for which reason, I move the committee to rise.

This motion being put, the committee rose, and reported progress, after which the House adjourned.

THURSDAY, February 4.

RULE OF NATURALIZATION.

The House again resolved itself into a Committee of the whole on the naturalization bill. Mr. BALDWIN in the chair.

Mr. TUCKER's motion was still before the committee.

The committee being about to take a question on the motion,

Mr. PAGE wished it delayed until he saw the gentleman from South Carolina (Mr. BURKE) in his place.

Mr. SMITH, (of S. C.) said, he believed the object of his colleague was nothing more than to let foreigners, on easy terms, be admitted to hold lands; that this object could be better effected by introducing a clause to that purpose, and he had no doubt but it would be equally satisfactory to his colleague.

Mr. GOODHUE was against the motion, because it made our citizenship too cheap; after it was decided against, he would move to make the term two years, instead of one, before an alien should be entitled to the privilege of a citizen.

Mr. STONE.—I would let the term of residence be long enough to accomplish two objects, before I would consent to admit a foreigner to have any thing to do with the politics of this country. First, that he should have an opportunity of knowing the circumstances of our Government, and in consequence thereof, shall have admitted the truth of the principles we hold. Second, that he shall have acquired a taste for this kind of Government. And in order that both these things may take place, in such a full manner as to make him worthy of admission into our society, I think a term of four or seven years ought to be required. A foreigner who comes here is not desirous of interfering immediately with our politics; nor is it proper that he should. His emigration is governed by a different principle; he is desirous of obtaining and holding property. I should have no objection to his doing this, from the first moment he sets his foot on shore in America; but it appears to me, that we ought to be cautious how we admit emigrants to the other privileges of citizenship, and that for a reason not yet mentioned; perhaps it may allude to the next generation more than to this, because the

present inhabitants, or most of them, have been engaged in a long, hazardous, and expensive war. They have been active in rearing up the present Government, and feel, perhaps, a laudable vanity in having effected what the most sanguine hardly dared to contemplate. There is no danger of these people losing what they so greatly esteem; but the admission of a great number of foreigners to all the places of Government, may tincture the system with the dregs of their former habits, and corrupt what we believe the most pure of all human institutions.

Mr. JACKSON.—It was observed yesterday, Mr. Chairman, that we could not modify or confine our terms of naturalization; that we could not admit an alien to the rights of citizenship progressively. I shall take the liberty of supporting the contrary doctrine, which I contend for, by a reference to the very accurate commentator on the laws of England, *Justice Blackstone*, I, 10.—“Naturalization,” says he, “cannot be performed but by an act of Parliament; for by this an alien is put in exactly the same state as if he had been born in the King's allegiance, *except* only, that he is incapable, as well as a denizen, of being a member of the Privy Council, or Parliament, holding offices, grants, &c. No bill for naturalization can be received in either House of Parliament without such disabling clause in it.” So that here we find, in that nation from which we derive most of our ideas on this subject, not only that citizens are made progressively, but that such a mode is absolutely necessary to be pursued in every act of Parliament for the naturalization of foreigners.

The same learned Judge then goes on to show the attempts that were made to introduce a general system of naturalization, and how they failed; and that, to this day, even of their meritorious naval and military characters they make an exception, as to sitting in Parliament, &c. and holding grants of land from the Crown, within the Kingdoms of Great Britain and Ireland. After this, I presume, it will not be contended that we cannot found our law on the principle of a progressive and probational naturalization.

With respect to the approbation which a foreigner ought to acquire before he becomes a citizen, I am most clear, and as arguments enough have been used to place it in its strongest point of light, I will not trouble the committee with a repetition; but I believe it essentially necessary to render the American name as honorable as it merits.

Mr. LAWRENCE knew that Congress had power to say on what terms aliens should be admitted to the rights of citizenship, and affix any length of residence they thought proper; so that there was no occasion to bring a commentator on the English law to prove it to him. But he contended, that when the alien was admitted to the right of citizenship, that the law of the United States could not vary any of the effects of that citizenship in the State to which he belong-

FEBRUARY 4, 1790.]

Rule of Naturalization.

[H. OF R.]

ed. He would elucidate this, by referring to the Constitution and practice of this State. No person in New York can be naturalized but by an act of the Legislature; and when he is naturalized, there are certain rights which, perhaps, he cannot exercise, because he is not qualified according to the terms of the Constitution. For example, he may not vote for Representatives in Assembly, unless he has resided six months in the State. Now, the act of Assembly naturalizing him, cannot bestow on him the right of voting, unless he either has before, or shall after, reside in the State for the term of six months. He contended, that the law of the United States could not alter the right of any man to vote after six months' residence in New York, provided he had conformed to the laws of the United States, in remaining one year, as the words, now moved to be struck out, seemed to imply. It is undoubtedly a question of policy, how long a person shall remain here before he is admitted to the rights of a citizen; but as a short term appeared to him to be best, he was for striking out the words proposed:

Mr. JACKSON understood the gentleman yesterday, as having advanced the argument to which he replied; but, if he was mistaken in regard to him, some other gentleman had made the observation, and the authority he adduced would serve to do away any doubts it might have given rise to.

Mr. HUNTINGTON.—The terms of the bill are too indefinite; they require the emigrant to take an oath that he intends to reside in the United States; but how long, and for what purpose, are not ascertained. He may determine to stay here until he accomplishes a particular object; and he may go into the most obscure part of the Union to take this oath. The community certainly will not be benefited by such emigrants, and therefore they ought not be admitted to the privileges of citizenship. The mode of naturalization, pointed out in this bill, is much too easy. In the State to which I belong, said he, no person could be naturalized, but by an act of the Legislature; the same is the case in several of the other States, and in Britain. He never knew a good inhabitant, who wished to be admitted to the rights of citizenship, but what found this mode sufficiently easy. The term that an emigrant should reside ought to be sufficiently long to give him an opportunity of acquiring a knowledge of the principles of the Government, and of those who are most proper to administer it; otherwise he cannot exercise his privilege with any advantage to himself, or to the community. He therefore wished that the clause might be amended, in such a manner as to leave the naturalization of foreigners to the State Legislatures.

Mr. CLYMER was of opinion, that foreigners ought to be gradually admitted to the rights of citizens; and that a residence for a certain time should entitle them to hold property; but that the higher privileges of citizens, such as electing, or being elected into office, should require

a longer term; permitting these rights to be assumed, and exercised at a shorter period, would not operate as any inducement to persons to emigrate; as the great object of emigration is generally with the view of procuring a more comfortable subsistence, or to better the circumstances of the individuals: the exercise of particular privileges was but a secondary consideration. He then observed, that it might be good policy to admit foreigners to purchase and hold lands in fee simple, without ever coming to America; it would, perhaps, facilitate the borrowing of money of Europeans, if they could take mortgages, and be secure. One State (Pennsylvania) had granted this liberty to aliens, and they have experienced no inconvenience therefrom; he wished Congress to pass a similar law, and was convinced it would not be dishonorable.

Mr. STONE gave it as his opinion, that a person, who meant to qualify himself for becoming a citizen of the United States, ought to take the oath of residence and allegiance within six months, and be thereupon entitled to hold property; but that he should not be capable of holding an office, or electing others into one, for seven years.

Mr. BURKE.—Unless some residence is required, it may be attended with confusion. In large cities, like Boston, New York, or Philadelphia, an election may be carried by the votes of the body of sailors who happened to be in port. If the French fleet was here at such a time, and a spirit of party strongly excited, perhaps one of the candidates might get the crews of every ship in the fleet, and after qualifying them, by taking an oath of no definite meaning, carry them up to the hustings, and place himself or his friend on this floor, contrary to the voice of nine-tenths of the city. Even a residence of one year is too short, it ought to be two, three, or four; but seven is too long. Indeed, the whole of this bill seems somehow objectionable; there are some cases also omitted, which may show the necessity of recommending it.

The case of the children of American parents born abroad ought to be provided for, as was done in the case of English parents, in the 12th year of William III. There are several other cases that ought to be likewise attended to.

Mr. PAGE had given his sentiments yesterday, and was clearly against throwing any obstacles in the way of good men desirous of becoming citizens.

Mr. LEE did not approve of the motion; but was in favor of as short a term as would be consistent, because he apprehended it would tend considerably to encourage emigration.

Mr. SENEY thought Congress had no right to intermeddle with the regulations of the several States, while prescribing a rule of naturalization. If they were disposed to say that two, three, or four years' residence in the United States was proper, before an alien should be eligible to an office under the General Government, they

might; but after they have admitted a foreigner to citizenship, he did not believe they were authorized to except him, for two years more, from being capable of election, or appointment to any office, Legislative, Executive, or Judicial, under the State Governments, provided the State laws or constitutions admit him at a shorter period. Nor did he believe Congress could admit foreigners to such privilege so early as two years in States requiring a longer term of probation. He had, however, no objection to foreigners being admitted to hold property, without any previous residence; but he did not like the idea of admitting them to a participation in the Government, without a residence sufficiently long to enable them to understand their duty. As the bill was not satisfactory to his mind, in its present form, he would vote a recommitment.

Mr. JACKSON had an objection to any persons holding land in the United States without residence, and an intention of becoming a citizen; under such a regulation the whole Western Territory might be purchased up by the inhabitants of England, France, or other foreign nations; the landholders might combine, and send out a large tenantry, and have thereby such an interference in the Government as to overset the principles upon which it is established. It will be totally subversive of the old established doctrine, that allegiance and land go together; a person owing no allegiance to a Sovereign ought not to hold lands under its protection, because he cannot be called upon and obliged to give that support which invasion or insurrection may render necessary. But, with respect to residence and probation, before an alien is entitled to the privilege of voting at elections, I am very clear it is necessary; unless gentlemen mean to render the rank of an American citizen the maygame of the world. Shall stories be told of our citizenship, such as I have read in the Pennsylvania Magazine of the citizenship there? If my memory serves me right, the story runs, that at a contested election in Philadelphia, when parties ran very high, and no stone was left unturned, on either side, to carry the election, most of the ships in the harbor were cleared of their crews, who, ranged under the masters and owners, came before a Magistrate, took the oath of allegiance, and paid half a crown tax to the Collector, as the Constitution required, then went and voted, and decided the contest of the day. On the return of one of the vessels, whose crew had been employed in the affair of the election, they fell in with a shoal of porpoises off Cape Henlopen: "Ha!" said one of them, "what merry company have we got here! I wonder where they are going so cheerfully?" "Going," replied one of his comrades, "why, going to Philadelphia, to be sure, to pay taxes, and vote for Assembly men!" I hope, Mr. Chairman, we have more respect for our situation as citizens, than to expose ourselves to the taunts and jeers of a deriding world, by making that situation too cheap.

Mr. SMITH, (of S. C.) admitted the propriety of recommitting the bill; but he wished some principles to be first established for the direction of the committee; for, at present, he was at a loss to conceive what was the prevailing opinion. Many gentlemen had suggested new ideas, which occasioned new difficulties; he hoped they would settle and remove some of them before they rose. The gentleman from Maryland (Mr. SENEY) has observed, that we have no right to declare upon what terms an alien shall be admitted to the offices of the State Governments; the same argument extends also to the voters. This opinion opens a new field of argument, and entirely changes the system; it ought, therefore, to be decided. For his part, he was of opinion, that an uniform rule of naturalization would extend to make a uniform rule of citizenship pervade the whole Continent, and decide the right of a foreigner to be admitted to elect, or be elected, in any of the States.

He would suggest another idea for consideration. What is to become of those inchoate rights of citizenship, which are not yet completed? Can the Government, by an *ex post facto* law, deprive an alien of the advantage of such an inchoate right?

Mr. SENEY.—The gentleman last up has different ideas of the jurisdiction of the United States from me. He believes we have not only the power of prescribing the qualifications of our own officers, but the officers of every State in the Union; but I conceive, with respect to the latter, we have nothing to do. We can go no further than to prescribe the rule by which it can be determined who are, and who are not citizens; but we cannot say they shall be entitled to privileges in the different States which native citizens are not entitled to, until they have performed the conditions annexed thereto.

Mr. BURKE said, no person ought to be permitted to inherit by descent, in America, unless the same privilege was reciprocated by other nations; perhaps this point would be properly settled by treaty, and it would be well to introduce a provisional clause to this effect. He was also in favor of admitting foreigners to hold lands on easy terms, if they would come to reside among us; and here he would take an opportunity of doing justice to some of them, as it might be supposed, from what had fallen from various parts of the House, that foreigners, educated under a Monarchy, were inimical to the pure principles of Republicanism. He was convinced that this doctrine was untrue, because he had often remarked, that foreigners made as good citizens of Republics as the natives themselves. Frenchmen, brought up under an absolute Monarchy, evinced their love of liberty in the late arduous struggle; many of them are now worthy citizens, who esteem and venerate the principles of our Revolution. Emigrants from England, Ireland, and Scotland, have not been behind any in the love of this country; so there is but little occasion for the

FEBRUARY 4, 1790.]

Rule of Naturalization.

[H. OF R.]

jealousy which appears to be entertained for the preservation of the Government.

Mr. CLYMER observed, that though Congress have authority to make a uniform rule of naturalization throughout the States, yet it was not true that it would apply with equal advantage to them all; that it might be proper every where, indeed, that aliens should be admitted, early, to the inferior rights of citizens, but that it would be unsuitable they should be admitted to the higher privileges at the same period, in all the States, however differently circumstanced. In States newly formed, it might be useful to fix a short period; but in the old States, fully peopled, he did not think the longest which had been mentioned too great; for this reason he thought the power of naturalizing should be referred to the States, to make such provision as they pleased, and therefore approved the recommitment; but not till the House had passed on to a following clause, which respects the objects of the bill. When that came under consideration, he thought it might be both a generous and wise policy to make an easy way to the return of those, with exception to one character only, who had been once citizens of the United States, and who would, many of them, gladly again become so; he meant the refugees, who were adding to the wealth and strength of a Power no ways friendly to us, and are actually injuring some of the States by the rivalry they create in the fisheries.

Mr. TUCKER thought the bill must be recommended; but he did not wish it done till the sense of the House was known on some of the various points that had presented themselves during the debate. With respect to the latter part of the first clause, he agreed with the gentleman from Maryland, (Mr. SENEY,) that we ought to provide a rule of naturalization, without attempting to define the particular privileges acquired thereby under the State Governments. By the Constitution of the United States, the electors of the House of Representatives are to have the qualifications requisite for electors of the most numerous branch of the State Legislatures. He presumed it was to be left to the discretion of the State Constitutions, who were to be the electors of the State Legislatures, and therefore the General Government had no right to interfere therein. The motion he had made for striking out the words, "and shall have resided within the United States for one whole year," not coming up to, or sufficiently explaining his wishes, he would withdraw, and propose to new model the clause, so as to allow aliens to be admitted to so much of the rights of citizenship as to be able to hold lands, upon taking the necessary oaths; but not to elect, or be elected, to any office under the General Government, until they had resided three years within the United States; with a proviso, that the titles to real estates should not be valid, unless they continued to reside for the term of three years in America.

Mr. HARTLEY observed, that the subject was entirely new, and that the committee had no positive mode to enable them to decide; the practice of England, and the regulations of the several States, threw some light on the subject, but not sufficient to enable them to discover what plan of naturalization would be acceptable under a Government like this. Some gentlemen had objected to the bill, without attending to all its parts, for a remedy was therein provided for some of the inconveniences that have been suggested. It was said, the bill ought to extend to the exclusion of those who had trespassed against the laws of foreign nations, or been convicted of a capital offence in any foreign kingdom; the last clause contains a proviso to that effect, and he had another clause ready to present, providing for the children of American citizens, born out of the United States.

Mr. LIVERMORE thought the bill very imperfect, and that the committee ought to rise, and recommend it to be referred to a select committee; observing, that it was extremely difficult for fifty or sixty persons to arrange and make a system of a variety of motions and observations that had been brought forward.

Mr. SEDGWICK was in favor of the committee rising. He did not recollect an instance wherein gentlemen's ideas had been so various as on this occasion; motions and observations were piled on the back of each other, and the committee, from the want of understanding the subject, had involved themselves in a wilderness of matter, out of which he saw no way to extricate themselves but by the rising of the committee.

Mr. SMITH, (of S. C.,) as a member of the Committee of the whole, wished to take his share of the blame for not understanding the subject; but he thought, nevertheless, that some of the points suggested had been so fully discussed, as to enable them to decide, particularly with respect to residence.

Mr. PAGE did not approve of the rising of the committee, until they had expressed their sense on the point they had had so long under consideration.

Mr. SYLVESTER thought it neither for the honor nor interest of the United States to admit aliens to the rights of citizenship indiscriminately; he was clearly in favor of a term of probation, and that their good behavior should be vouched for. He suggested the idea of lodging the power of admitting foreigners to be naturalized in the District Judges.

Mr. SEDGWICK meant to blame no gentleman, and hoped no gentleman understood him to intend such a thing. He conceived himself as much in fault as any member, because he had not yet turned his attention so seriously to the subject as he ought.

On the question being put, the committee rose and reported, and the bill was recommitted to a committee of ten.

H. OF R.]

Census Bill.

[FEBRUARY 5, 1790.]

CENSUS BILL.

The House resumed the consideration of the bill for the actual enumeration of the inhabitants of the United States, when a motion was made to recommit this bill.

Mr. SEDGWICK adverted to the present rate of representation of the several States in Congress, in which the most palpable inequality reigned. He observed, that an enumeration, such as would be competent to equalize the representation, ought to be made previous to the next election. This, he said, the people expected, on the title of right and justice; and the Constitution had provided for it; nor will the people, who think themselves not fully represented, be content without enjoying that weight and influence in the Legislature to which they conceive they are entitled. He then read the proposition, which he intended to offer as a clause to be incorporated in the bill, when it shall be committed to a Committee of the whole.

Mr. JACKSON said, there would not be sufficient time allowed to complete the enumeration; and objected to it, particularly as it proposed the President of the United States shall determine the census of the inhabitants, from the returns he may receive from the Marshals and the ratio of representation on those returns.

Mr. SMITH (of S. C.) said, that he objected to the proposition, as he thought it did not allow a sufficient time for the returns to be made. He then mentioned the several periods that must probably elapse, before the business of enumeration could be completed. From which it appeared, that the object of the motion cannot be effected in such a manner as to make any alteration in the next election proper.

Mr. WHITE pointed out the difficulties that would result from such a measure, as some of the States had passed laws to regulate the time of elections; and, he presumed, that the Legislature never would delegate to any man, or men, the power of determining the ratio of representation.

Mr. LAWRENCE said, he had no objection to recommit the bill. It appeared to him that the rule of representation ought to be determined, previous to ascertaining the number of inhabitants, as, in all probability, that rule would be adopted with less prejudice and partiality, while the contingencies that may affect it are not known.

Mr. JACKSON said, he thought this suggestion was an artifice, covered, however, with too thin a veil not to be seen through, it was too unsubstantial to support itself; that point has been already settled by the Constitution. He recited the clause that particularly pointed out the number of Representatives each State is entitled to elect, previous to any actual enumeration; the Constitution, therefore, plainly directs an enumeration before the ratio of a future representation shall be settled.

Mr. SMITH (of S. C.) said, that the ratio of representation was already proposed by Congress, in the amendments sent out to the Legislatures. He, therefore, hoped that nothing would be done to impede the progress and ratification of those amendments.

Mr. SEDGWICK said, that when he introduced the proposition, he supposed it was founded upon such fair and equal principles that he did not anticipate the smallest objection would have been made by any gentleman whatever. The proposition was simply this, that justice should be done; that a more equal representation should be attempted and effected. If inequalities do exist, and it is very evident they do, can any gentleman object to a remedy?

The motion for recommitting the bill to a Committee of the whole was put, and carried in the affirmative.

FRIDAY, February 5.

REMISSION OF FINES.

The House resolved itself into a Committee of the whole on the bill to provide for the remission or mitigation of fines, forfeitures, and penalties in certain cases, Mr. BALDWIN in the chair.

The clause provides:

That whenever any person, liable to fine or penalty, or subject to forfeiture, shall petition before judgment is rendered, and offer to confess judgment for the same, the judge, with the district attorney, or marshal, may inquire, in a summary manner, into the truth of the allegations in the petition, and if it appears to them that the fine, &c. was incurred inadvertently, or by casualty, and without fraud, or intent to evade the law, the same may be admitted; saving to the informer, or person seizing the property, the right they have acquired.

Mr. GOODHUE said, this law would put the man in a worse situation than if left to his chance upon the action; for if he confessed judgment, he must lose half his property. It was common, he believed, to extend mercy after conviction.

Mr. LIVERMORE moved to strike out the words, "offering to confess judgment for the same."

Mr. AMES said, he was indifferent whether the words in the clause were retained or struck out. He wished, however, that the principles of the bill might be well understood. That a strict adherence to rule, even if it should sometimes be attended with rigor, he conceived to be a less evil than a lax mode of executing the laws; that it may be considered as a great grievance to have frequent recourse to qualified interpretations of the laws. With respect to the revenue, it must strike every person, that a certain rule ought to be maintained in all possible cases; nevertheless, fines, penalties and forfeitures may be incurred in such a manner as may entitle to relief. The object of the bill, he said, was to grant such relief, with the least risk of injuring the revenue, and in such a mode,

FEBRUARY 8, 1790.]

Remission of Fines.

[H. OF R.]

as that the person offending may receive it as soon as possible.

Mr. SEDGWICK was in favor of the motion, and endeavored to demonstrate the injustice of requiring a confession previous to granting relief, as it would violate the feelings of a person conscious of his innocence, besides subjecting him, inevitably, to the forfeiture of one-half of his property.

Mr. BURKE was for striking out the whole clause; because it held up a temptation for a man to accuse himself, which was contrary to every principle of law. It put him in mind of a story of the notorious Judge Jeffries, who advised a man to confess himself guilty, and to throw himself upon the mercy of the court, and afterwards hung him.

Mr. WADSWORTH stated a case, to show that this law would render the situation of persons designed to be relieved by it much worse than it now is; and would eventually tend to injure the coasting trade.

Mr. LAWRENCE observed, that persons absolutely violating the laws, whether intentionally or through ignorance, would, by process of law, as it now stands, be precluded from all relief. He insisted, therefore, that it was necessary this confession of judgment should accompany the application for relief, in cases designed to be provided for by the bill; without this confession the application would appear to be absurd. He was, therefore, opposed to the motion for striking out the words.

Mr. SMITH thought that the person would be better off to take his chance at law, as was observed by the gentleman from Massachusetts; for, in that case, he would have an opportunity of throwing the burthen of the proof on his adversary; he would have the benefit of counsel, and a trial by jury, besides the interlocutory trials arising from a misnomer, &c. He therefore conceived this part of the bill not consonant with the title, for his idea of giving relief was, that the person's case should be better and not worse.

Mr. STURGES said, he did not conceive the relief proposed to be administered ought to be considered in the light of mercy, but justice. The mode of relief pointed out in the bill, however the circumstances may appear, leaves the sufferer in a situation that no person ought to be liable to who is not guilty of a violation of the laws intentionally or wilfully, for he is, at any rate, to lose one-half of his property. The case stated by the gentleman from South Carolina, (Mr. BURKE,) he thought, was very pertinent.

Mr. FITZSIMONS said, he hoped, if those words were struck out, that the whole clause would be erased, and that a more equitable mode would be pointed out. He adverted to the practice in England, where, after a trial, application for relief is made to the commissioners.

Mr. WADSWORTH said, it seemed to be supposed that the revenue laws were sufficiently

plain to be understood; but he conceived this was not the case, because the collectors at the several ports had put different constructions upon them.

Mr. AMES observed, that he had no doubt that when the committee possessed themselves with a more competent knowledge of the operation and tendency of the bill, it would meet with approbation. With respect to the offender losing the half of his property on confession, he observed, that this inconvenience might be prevented, by the person filing his petition, previous to information being laid by the person seizing the property. And that, he said, he would always have in his power to do.

Mr. STONE said, there were two considerations with respect to this measure; the first was, whether such a discretionary power ought to be trusted any where or not; because it might do a greater injury to the revenue than benefit to the individual; and, second, whether, if such a trust was necessary, it had not better be made a judicial right, than leave it to an arbitrary determination, independent of the principles of law? He hoped these two points would be considered before the bill was decided upon.

Mr. SCOTT objected to the bill, upon the grounds already mentioned by other gentlemen; but he had one further reason for disliking it: it was this—that after a man had been convicted by the verdict of a jury, of a breach of the law, he might avail himself of this act, because it admitted the petition to be presented at any time before judgment is rendered; so the offender might have his petition ready in his pocket, to present to the bench immediately after he had heard the decision of the jury.

The motion for striking out the words being put, was carried in the affirmative, and the committee rose, and reported the bill as amended; whereupon it was ordered to be re-committed to a Select Committee.

MONDAY, February 8.

The memorial of Robert Morris, desiring an investigation into his conduct as Superintendent of Finance, was presented and referred, with a request that it might be entered at length on the Journal. A copy of this memorial appears in the Appendix to this volume.

Mr. GOODRUE presented a petition from sundry inhabitants of Salem, stating, that through a very particular construction of a section in the coasting law, vessels owned by the citizens of the United States, and, as they thought, properly qualified as such, had been obliged to pay the alien duty in some of the Southern States, and praying a relief or a refund of the duty so paid. Laid on the table.

CENSUS BILL.

On motion of Mr. SEDGWICK, the Committee of the Whole House was discharged from any further discussion of the bill providing for the actual enumeration of the inhabitants of the United States.

H. OF R.]

Public Credit.

[FEBRUARY 8, 1790.]

It was then voted that the blanks in the bill should be filled up.

The first blank respected the time to be allowed for completing the enumeration; six, four, and three months were proposed.

Mr. SEDGWICK said, that as so long a time is to elapse before the assistants are to enter upon the business, the work of preparation would be completed in such a manner that he conceived three, two, or even one month would be sufficient.

Mr. WHITE said, that he was certain, that in many of the States, two, three, or four months would be found short enough to complete the enumeration in those States. In Eastern States the business might be finished in a much shorter period; but when the time shall be elapsed that is allowed by law, and the enumeration is completed in some of the States, and the numbers fully returned, it cannot be supposed that those States who have not completed theirs would acquiesce in any regulations and establishments founded on so imperfect a statement.

Mr. BURKE was in favor of allowing the longest period, on account of the great variety of obstacles and impediments in the way of completing the enumeration within so short a time, even as six months; and the census, when returned in so incomplete a state, could not be supposed satisfactory; it would create uneasiness, and might terminate in absolute injustice.

Mr. JACKSON adverted to the peculiar circumstances of the Southern States, particularly Georgia, and the recent accession of the State of North Carolina to the Union, the extensiveness of the territory of those States, and the dispersed situation of its inhabitants, and contended that six months would be but a short time in which to complete the business.

Mr. MADISON observed, that the situation of the several States was so various, that the difficulty of adopting a plan for effecting the business, upon terms that would give general satisfaction, could only be obviated by allowing sufficient time. Some of the States have been accustomed to take the enumeration of their citizens, others have never done it at all. To the former, the business will be easy, and may be completed within the shortest period; in the others, it will be attended with unforeseen difficulties. In addition to these, there is another consideration to be taken into view. There must be a greater number of assistants employed in the Southern States; there are many contingencies that cannot be provided against; the assistants may die and leave the business unfinished; it may be necessary to appoint others. The returns from so many persons, from such extensive districts, will require such a length of time as leaves no probability that it can be completed in a shorter period than three months.

Mr. SEDGWICK said, he did not wish to precipitate the business. The equalising the representation ought to be a matter of serious concern to every gentleman; it was peculiarly so

to the delegation from those States who are so unequally represented; he wished for a full and competent enumeration, and was for allowing full time to complete it in. But there did not appear to him any force in the objection raised from the contingency of the death of the assistants; the longer the period was, there certainly was the greater probability of such events. And he was clearly of opinion, that extending the period would not conduce to obtaining, finally, so accurate an enumeration.

The question being taken on "six months," it was carried in the affirmative.

The other blanks in the bill were filled up, and it passed the House.

PUBLIC CREDIT.

The House then resolved itself into a Committee of the whole on the State of the Union. The report of the Secretary of the Treasury relative to a provision for the support of public credit was before them. Mr. BALDWIN in the Chair.

After a silence of some minutes,

Mr. LIVERMORE asked what part of the report it was expected that gentlemen should speak to? He wished some gentleman would select such parts as he conceived to be of importance, and submit them to the committee.

Mr. SMITH (of South Carolina) was of opinion, that the committee had better consider the object of the report, in separate points of view, by which means they would be able to go through the investigation with a greater degree of accuracy than if they were left to range at large in the extensive field before them. The report contains objects so various, that it is possible gentlemen may agree, with respect to one or two, and yet differ on a third: from this consideration, he was induced to suggest the idea of single and independent resolutions, and had prepared the following: if the manner met the approbation of the committee, he would lay them on the table for consideration. They were to the following effect:

Resolved, That Congress ought not adjourn, until they have adopted such measures as will make an adequate provision for the public debt.

Resolved, That in making such provision, no discrimination shall be made, between the original holders of the evidences, and the assignees thereof.

Resolved, That such of the debts of the individual States, as have been incurred by them, during the late war, ought to be assumed by the General Government, and like funds provided for them.

Resolved, That the arrearages of interest, on the Continental and State debts, ought to be funded, and consolidated with the principal.

Resolved, That the interest to be paid thereon does not exceed ——— percent. per annum, for the present.

These motions were severally expressive of objects contemplated in the Secretary's report. The last was upon a principle of modification, such as was held out in the plan for relieving the debt.

FEBRUARY 8, 1790.]

Public Credit.

[H. OF R.]

If he was seconded, he would lay these resolutions on the table.

Mr. BOUDINOT.—I take it, Mr. Chairman, we are now in a Committee of the whole on the State of the Union, for the purpose of considering a report of the Secretary of the Treasury, founded on an order of this House, given at their last session; our business, therefore, is to contemplate the debt of the Union, and to devise the proper measures to be pursued in regard thereof. In the first instance, then, we are to consider the nature of the debt; and, in the second, whether we will fund it in the manner proposed in the report on the table, or in what other way it shall be done. I apprehend, sir, we pledge ourselves to do this, when we resolved that an adequate provision for the support of public credit was a matter of high importance to the national honor and prosperity.

We have since that given a solemn assurance, in our address to the President, that this subject shall be among the first to engage our attention. Having, therefore, proceeded so far in this business, there can be little debate with respect to the first resolution proposed by the gentleman from South Carolina.

We are bound by every principle of honor, of interest, and of policy, to look this subject in the face; and in doing this, let us advert to the origin of our debt, and view the end it was intended to answer. Perhaps a small portion of our time may be well spent, in recalling to our recollection the peculiar situation of these United States at that period. But I find the portrait better drawn, in an address of the late Congress, of May 1789, than I can express it; I will therefore give it to you in their own language.

Mr. B. here proceeded to read the address: in the first place it represents the then situation of our affairs. America, without arms, ammunition, discipline, revenue, government, or ally; almost totally stript of commerce, and in the weakness of youth, as it were, with a "staff and a sling," only dared, "in the name of the Lord of Hosts," to engage a gigantic adversary, prepared at all points, boasting of his strength, and of whom mighty warriors "were greatly afraid."

For defraying the expense of this uncommon war, your Representatives in Congress were obliged to emit paper money; an expedient that you know was heretofore generally and successfully practised on this Continent.

They were very sensible of the inconveniences with which too frequent emissions would be attended, and endeavored to avoid them. For this purpose, they established loan-offices so early as in October 1776; and have, from that time to this, repeatedly and earnestly solicited you to lend them money on the faith of the United States. The sums received on loan have, nevertheless, proved inadequate to the public exigencies. Our enemy, prosecuting the war, by sea and land, with implacable fury, and with some success; taxation at home,

and from borrowing abroad, in the midst of difficulties and dangers, were alike impracticable: hence the continued necessity of new emissions.

The address goes on, and points out other causes of these emissions, which it was impracticable for Congress to redress at that time, but which they recommend now to be done. We are persuaded (say they) you will use all possible care to make the promotion of the general welfare interfere as little as may be with the ease and comfort of individuals; but, though the raising of these sums should press heavily on some of our constituents; yet the obligations we feel to your venerable clergy, the truly helpless widows and orphans, your most gallant, generous, meritorious officers and soldiers, the public faith, and the commonwealth, so irresistibly urges us to attempt the appreciation of your currency, that we cannot withhold obedience to those authoritative sensations.

On this subject we will only add, that as the rules of justice are most pleasing to our infinitely good and gracious Creator, and an adherence to them most likely to obtain his favor, so they will ever be found to be the best and safest maxims of human policy.

To our constituents, we submit the propriety and purity of our intentions, well knowing they will not forget that we lay no burthens upon them, but those in which we participate with them; a happy sympathy that pervades societies, formed on the basis of equal liberty. Many cares, many labors, and may we not add, reproaches, are peculiar to us: these are the emoluments of our unsolicited stations; and with these we are content, if you approve our conduct: If you do not, we shall return to our private condition, with no other regret, than that which will arise from our not having served you as acceptably, and as essentially, as we wished and strove to do, though as cheerfully and faithfully as we could.

They then proceed to detail the advantages arising from an alliance formed between the King of France and these United States; and observe, that when unprepared, undisciplined, and unsupported, we opposed the fleets and armies of our enemy in full conjoined force, then, if at any time, was conquest to be apprehended: yet, what progress towards it did their violent and incessant efforts make? Judge from their own conduct. Having devoted you to bondage, and after vainly wasting their blood and treasure, in the dishonorable enterprise, they deigned, at length, to offer terms of accommodation, with respectful addresses, to that once despised body, the Congress, whose humble supplications, only for peace, liberty, and safety, they had contemptuously rejected, under pretence that it was an unconstitutional assembly. Nay, more desirous of seducing you into a deviation from the paths of rectitude, from which they had so far and so rashly wandered, they made most specious offers to tempt you into a violation of your faith,

given to your illustrious ally. Their arts were as unavailing as their arms. Foiled again and stung with rage, embittered by envy, they had no alternative but to renounce an inglorious and ruinous controversy, or to resume their former modes of prosecuting it. They chose the latter. Again the savages were stimulated to horrid massacres of men, women, and children, and domestics to the murder of their masters. Again our brave and unhappy brethren were doomed to miserable deaths, in gaols and prison ships. To complete the sanguinary system, all the "extremities of war" were, by authority, denounced against you.

Piously endeavor to derive this consolation from their remorseless fury, that "the Father of mercies" looks down with disapprobation on such audacious defiance of his holy laws; and be further comforted with recollecting, that the arms assumed by you, in your righteous cause, have not been sullied by any unjustifiable severities.

Your enemies despairing, however, as it seems, of the success of their united forces against our main army, have divided them, as if their design was to harass you by predatory, desultory operations. If you are assiduous in improving opportunities, Saratoga may not be the only spot on the Continent to give a new denomination to the baffled troops of a nation, impiously priding herself in notions of her omnipotence.

Rouse yourselves, therefore, that this campaign may finish the great work you have so nobly carried on for several years past. What nation ever engaged in such a contest, under such a complication of disadvantages, so soon surmounted many of them, and in so short a period of time had so certain a prospect of a speedy and happy conclusion? We will venture to pronounce, that so remarkable an instance exists not in the annals of mankind. We well remember what you said at the commencement of this war. You saw the immense difference between your circumstances and those of your enemies; and you knew that the quarrel involved no less than your lives, liberties, and estates. All these you liberally put to every hazard, resolving rather to die free-men than to live slaves; and justice will oblige the impartial world to confess, that you have uniformly acted on the same general principle. Consider how much you have done, and how, comparatively, little remains to be done to crown you with success. Persevere, and you ensure peace, freedom, safety, glory, sovereignty and felicity to yourselves, your children, and your children's children.

Encouraged by favors already received from Infinite Goodness, gratefully acknowledge them, earnestly imploring their continuance, constantly endeavoring to draw them down on your heads, by an amendment of your lives, and a conformity to the Divine Will, humbly confiding in the protection, so often and so wonderfully experienced; vigorously employ

the means placed by Providence in your hands for completing your labors.

Fill up your battalions; be prepared in every part to repel the incursions of your enemies; place your several quotas in the Continental Treasury; lend your money for public uses; sink the emissions of your respective States; provide effectually for expediting the conveyance of supplies for your armies and fleets, and for your allies; prevent the produce of your country from being monopolized; effectually superintend the behavior of public officers; diligently promote piety, brotherly love, learning, frugality and moderation; and may you be approved, before Almighty God, worthy of those blessings we devoutly wish you to enjoy.

This being the situation of our country, Congress, in the September following, called on the citizens for loans, and for taxes, and pledged the United States for the ultimate redemption of the principal, and the intermediate punctual payment of the interest: they then took up the subject of finance under three different heads.

1st. Whether, and in what manner, the faith of the United States had been pledged for the redemption of their bills?

2d. Whether the United States had put themselves into a political capacity to redeem their bills? This is a question which calls for more full discussion.

Our enemies, as well foreign as domestic, have labored to raise doubts on this head. They argue, that the confederation of the States remains yet to be perfected; that the Union may be dissolved, Congress be abolished, and each State, resuming its delegated powers, proceed, in future, to hold and exercise all the rights of sovereignty appertaining to an independent State. In such an event, say they, the Continental bills of credit, created and supported by the Union, would die with it. This position being assumed, they next proceed to assert this event to be probable; and in proof of it, urge our divisions, our parties, our separate interests, distinct manners, former prejudices, and many other arguments, equally plausible, and equally fallacious. Examine this matter.

For every purpose essential to the defence of those States in the progress of the present war, and necessary to the attainment of the objects of it; these States now are as fully, legally, and absolutely confederated, as it is possible for them to be. Read the credentials of the different delegates who composed the Congress in 1774, 1775, and part of 1776, you will find that they establish an Union for the express purpose of opposing oppressions of Britain, and obtaining redress of grievances. On the fourth of July 1776, your representatives in Congress, perceiving that nothing less than unconditional submission would satisfy our enemies, did, in the name of the people of the thirteen United Colonies, declare them to be free and independent States, and, "for the support of that declaration, with a firm reliance on the protection of Divine Providence, did mutually

FEBRUARY 8, 1790.]

Public Credit.

[H. OF R.]

pledge to each other, their lives, their fortunes, and their sacred honor." Was ever confederation more formal, more solemn, or more explicit? It has been expressly assented to, and ratified by every State in the Union. Accordingly, for the direct support of this declaration, that is, for the support of the independence of these States, armies have been raised, and bills of credit emitted, and loans made to pay and supply them. The redemption, therefore, of these bills; the payment of these debts; and the settlement of the accounts of the several States, for expenditures of services for the common benefit, and in this common cause, are among the objects of this confederation; and consequently, while all or any of its objects remain unattained, it cannot, so far as it may respect such objects, be dissolved, consistently with the laws of God or man.

3d. Whether, admitting the ability and political capacity of the United States to redeem their bills, there is any reason to apprehend a wanton violation of the public faith.

It is with great regret and reluctance, that we can prevail upon ourselves to take the least notice of a question, which involves in it a doubt so injurious to the honor and dignity of America.

The enemy, aware that the strength of America lay in the union of her citizens, and the wisdom and integrity of those to whom they committed the direction of their affairs, have taken unwearied pains to disunite and alarm the people, to depreciate the abilities and virtue of their rulers, and to impair the confidence reposed in them by their constituents. To this end, repeated attempts have been made to draw an absurd and fanciful line of distinction between the Congress and the people, and to create an opinion and a belief, that their interests and views were different and opposed. Hence, the ridiculous tales, the invidious insinuations, and the whimsical suspicions, that have been forged and propagated by disguised emissaries and traitors, in the garb of patriots. Hence has proceeded the notable discovery, that as Congress made the money they also can destroy it; and, that it will exist no longer than they find it convenient to permit it. It is not surprising, that in a free country, where the tongues and pens of such people are and must be licensed, such political heresies should be inculcated and diffused; but it is really astonishing, that the mind of a single virtuous citizen in America should be influenced by them. It certainly cannot be necessary to remind you, that your representatives here are chosen from among yourselves; that they are sent to speak your sentiments, and that it is constantly in your power to remove such as do not. You surely are convinced, that it is no more in their power to annihilate your money than your independence, and that any act of theirs for either of these purposes would be null and void.

We should pay an ill compliment to the understanding and honor of every true American,

were we to adduce many arguments to show the baseness or bad policy of violating our national faith, or omitting to pursue the measures necessary to preserve it. A bankrupt, faithless Republic would be a novelty in the political world, and appear, among reputable nations, like a common prostitute among chaste and reputable matrons. The pride of America revolts from the idea; her citizens know for what purposes these emissions were made, have repeatedly plighted their faith for the redemption of them: they are to be found in every man's possession, and every man is interested in their being redeemed; they must therefore entertain a high opinion of American credulity, who suppose the people are capable of believing, on due reflection, that all America will, against the faith, the honor, and the interest of this country, be ever prevailed upon, though the arts of our enemies will not be wanting to draw us into this humiliating and contemptible situation. Impelled by malice, and the suggestions of chagrin and disappointment, at not being able to bend our necks to their yoke, they will endeavor to force or seduce us to commit this unpardonable sin, in order to subject us to the punishment due to it; and that we may therefore be a reproach and by-word among the nations. Apprised of these consequences, knowing the value of national character, and impressed with a due sense of the immutable laws of justice and honor, it is impossible that America should think without horror of such an execrable deed.

If, then, neither our ability, nor our inclination to discharge the public debt are justly questionable, let our conduct correspond with this confidence, and let us rescue our credit from its present imputations.

They then go on, and point out the means by which this may be done. The war, though drawing fast to a successful issue, still rages. Disdain to leave the whole business of your defence to your ally. Be mindful that the brightest prospects may be clouded, and that prudence bids us to be prepared for every event. Provide, therefore, for continuing your armies in the field, till victory and peace shall lead them home; and avoid the reproach of permitting the currency to depreciate in your hands, when, by yielding a part to taxes and loans, the whole might have been appreciated and preserved. Humanity, as well as justice, makes this demand upon you; the complaints of ruined widows, and the cries of fatherless children, whose whole support has been placed in your hands, and melted away, have doubtless reached you. Rouse, therefore; strive who shall do most for his country; rekindle that flame of patriotism which, at the mention of disgrace and slavery, blazed throughout America, and animated all her citizens. Determine to finish the contest as you began it, honestly and gloriously. Let it not be said, that America had no sooner become independent than she became insolvent; or, that her infant glories and growing fame were obscured and tarnished by broken con-

tracts and violated faith, in the very hour when all the nations of the earth were admiring, and almost adoring the splendor of her rising.

I conceive, Mr. Chairman, after duly considering the momentous circumstances I have brought to your attention, there is no man possessed of the principles of common honesty, within the sound of my voice, that will hesitate to conclude with me, that we are bound by every principle of honor, justice, and policy, to fund the debt of the United States, which has been one great means, under heaven, of securing to us our independence. I presume, sir, on this point we shall have no dispute. All that remains, then, for our consideration, is the manner and means of accomplishing it.

We must view it as a debt of honor, from the nature of the contract, from the objects effected, and the happy state we are now in. The principles of interest call loudly upon us to complete the business so happily begun. The Secretary, in the report before us, observes, with great justice, that exigencies are to be expected to occur in the affairs of nations, in which there will be a necessity for borrowing, and particularly in a country like this, possessed of little moneyed capital. How much, then, is it our interest to secure our public credit on a stable and sure foundation? Besides this, it is our interest in another point of view; by this means we shall introduce a medium into circulation which will give a spring to the agriculture, commerce, and manufactures of the Union.

Our policy also guides us into the adoption of some such measure as is proposed in the report. A punctual performance of our public engagements will invite moneyed men, in the days of distress, to lend us every pecuniary aid. Our debt undoubtedly is large; but not so large as might have been reasonably expected, considering the magnitude of the object we have successfully accomplished; but it can by no means be considered so large as to prevent us from an attempt to discharge it.

Let us then adopt the motion now on your table, or something like it; not, perhaps, immediately, because it might be supposed to preclude that discussion which the subject requires, as the most important that has, or can come before us.

Mr. FRITZSIMONS had the same idea with the gentleman from South Carolina, (Mr. SMITH,) that the attention of the committee ought to be confined to specific objects. With this view he had endeavored to collate, and render per spicuous, the great outline of the Secretary's plan. They were more particular than those laid on the table, though they were substantially the same. He wished to be understood, that if the committee inclined to take them into consideration, he did not mean to bind himself to support them by the part he had taken in bringing them forward.

He then read them, as follows:

1. *Resolved*, That adequate provision ought to be

made for fulfilling the engagements of the United States in respect to their foreign debt.

2. *Resolved*, That permanent funds ought to be appropriated for the payment of interest on, and the gradual discharge of, the domestic debt of the United States.

3. *Resolved*, That the arrears of interest, including indents, issued in payments thereof, ought to be provided for on the said terms with the principal of the said debt.

4. *Resolved*, That the debts of the respective States ought, with the consent of the creditors, to be assumed and provided for by the United States.

5. *Resolved*, That it is advisable to endeavor to effect a new modification of the domestic debt, including that of the particular States, with the voluntary consent of the creditors, by a loan upon terms mutually beneficial to them and to the United States.

6. *Resolved*, That for the purpose expressed in the last preceding resolution, subscriptions towards a loan ought to be opened to the amount of the said debt, including that of the respective States, upon the terms following, to wit:

That for every hundred dollars subscribed, payable in the said debt (as well interest as principal) the subscriber be entitled, at his option, either

To have two-thirds funded at an annuity or yearly interest of six per cent., redeemable at the pleasure of the Government, by payment of the principal; and to receive the other third in lands in the Western Territory, at the rate of twenty cents per acre: or

To have the whole sum funded at an annuity or yearly interest of four per cent., irredeemable by any payment exceeding five dollars per annum, on account both of principal and interest; and to receive as a compensation for the reduction of interest, fifteen dollars and eighty cents, payable in lands, as in the preceding case: or

To have sixty-six dollars and two-thirds of a dollar funded immediately, at an annuity or yearly interest of six per cent. irredeemable by any payment exceeding four dollars and two-thirds of a dollar per annum, on account both of principal and interest; and to have, at the end of ten years, twenty-six dollars and eighty-eight cents, funded at the like interest and rate of redemption: or

To have an annuity for the remainder of life, upon the contingency of living to a given age, not less distant than ten years, computing interest at four per cent: or

To have an annuity for the remainder of life, upon the contingency of the survivorship of the younger of two persons, computing interest, in this case also, at four per cent.

7. *Resolved*, That immediate provision ought to be made for the present debt of the United States; and that the faith of Government ought to be pledged to make provision at the next session for so much of the debts of the respective States, as shall have been subscribed upon any of the terms expressed in the last resolution.

8. *Resolved*, That the funds which shall be appropriated according to the second of the foregoing resolutions be applied, in the first place, to the payment of interest on the sums subscribed towards the proposed loan; and that, if any part of the said domestic debt shall remain unsubscribed, the surplus of the said funds be applied by a temporary appropriation to the payment of interest on the unsub-

FEBRUARY 9, 1790.]

Public Credit.

[H. OF R.]

scribed part, so as not to exceed for the present four per cent. per annum; but this limitation shall not be understood to impair the right of the non-subscribing creditors to the residue of the interest on their respective debts: and in case the aforesaid surplus shall prove insufficient to pay the non-subscribing creditors, at the aforesaid rate of four per cent., that the faith of Government be pledged to make good such deficiency.

Mr. PAGE requested the report of the Secretary to be read, as it was the groundwork of the business they were in committee upon; and he requested gentlemen to offer their motions, when the part of the report to which they related was under consideration.

After reading of the report, the committee rose and reported progress.

TUESDAY, February 9.

PUBLIC CREDIT.

The House again resolved itself into a Committee of the whole on the state of the Union, Mr. BALDWIN in the chair.

Mr. SMITH withdrew his motion of yesterday, to make way for the resolutions of Mr. FITZSIMONS.

Mr. JACKSON objected to receiving the whole of those resolutions, lest it should be inferred that the committee bound themselves to adopt them.

Mr. FITZSIMONS said, he had declared his intentions to the committee yesterday when he brought them forward; he would repeat them again; he meant that the committee should have some systematic plan of proceeding before them, to consider and decide on each resolution singly; but he by no means intended the resolutions, if admitted, to be binding on any member; he did not mean to pledge even himself to support them all.

Mr. JACKSON was satisfied to go into a consideration of them on these terms.

Mr. STONE moved to amend it by striking out the words "in respect to their foreign debt," and then modify the next resolution by striking out the word "domestic."

After some suspense, this motion not being seconded, the question was taken on the first resolution, which was carried in the affirmative unanimously.

Mr. JACKSON.—Believe me, Mr. Chairman, I have as high a sense of the obligation we are under to the public creditors, and feel as much gratitude towards them as any man on this floor. I shall ever cheerfully acknowledge the duty we owe to our benefactors, and in a peculiar manner to those brave soldiers who, at the risk of their lives and fortunes, secured the independency of America. I have also the most sincere wishes for the re-establishment of public credit, and that upon firm and solid ground, and on principles which cannot be called in question; but there appears to me a previous question, which has not yet been brought forward; it is this, whether there exists an immediate necessity for funding the national debt in the permanent manner proposed?

The high regard I have for the nature and circumstances of the foreign debt, induced me to let the first proposition pass without any animadversion. The vote which has been taken on that point will serve to show foreigners that we are concerned to preserve our credit with them by a rigid performance of our stipulations; trusting, at the same time, that our fellow-citizens cannot object to a distinction so just and proper in itself; for, notwithstanding what the domestic creditors may say, it is the money of foreigners that has, in a great measure, established our independence.

It is doubtful with me whether a permanent funded debt is beneficial or not to any country; some of the first writers in the world, and who are most admired on account of the clearness of their perceptions have thought otherwise, and declared that wherever funding systems have been adopted in a Government, they tend more to injure posterity than they would injure the inhabitants to pay the whole debt at the time it was contracted. The principle, I apprehend, is demonstrated by experience; the first system of the kind that we have any account of originated in the State of Florence in the year 1634; that Government then owed about £60,000 sterling, and being unable to pay it, formed the principal into a funded debt, transferable with interest at five per cent. What is the situation of Florence in consequence of this event? Her ancient importance is annihilated. Look at Genoa and Venice; they adopted a similar policy, and are the only two of the Italian Republics who can pretend to an independent existence, but their splendor is obscured; they have never been able since the period at which a funding system was introduced to raise themselves to that formidable state to which they were before. Spain seems to have learned the practice from the Italian Republics, and she, by the anticipation of her immense revenue, has sunk her consequence beneath that level which her natural situation might have maintained. France is considerably enfeebled, and languishes under a heavy load of debt. England is a melancholy instance of the ruin attending such engagements. In the reign of King William, 1706, the policy of the English Parliament laid the foundation of what is called their national debt; but the sum was inconsiderable; it little exceeded £5,000,000 sterling; the example then set has been closely followed. In 1711, it amounted to £9,177,769 sterling, during the wars in the reign of Queen Anne; since that, the capital of the debt of Great Britain amounted, in 1777, to about £136,000,000 sterling; and to such a pitch has the spirit of funding and borrowing been carried in that country, that in 1786, their national debt had increased to £230,000,000 sterling; a burthen which the most sanguine mind can never contemplate they will ever be relieved from. If future difficulties should involve that nation still further, what must be the consequence? The same effect must be produced that has taken place

H. OF R.]

Public Credit.

[FEBRUARY 9, 1790.]

in other nations; it must either bring on a national bankruptcy, or annihilate her existence as an independent empire. Hence I contend that a funding system in this country will be highly dangerous to the welfare of the Republic; it may, for a moment, raise our credit, and increase our circulation by multiplying a new species of currency; but it must hereafter settle upon our posterity a burthen which they can neither bear nor relieve themselves from. It will establish a precedent in America that may, and in all probability will be pursued by the Sovereign authority, until it brings upon us that ruin which it has never failed to bring, or is inevitably bringing, upon all the nations of the earth who have had the temerity to make the experiment. Let us take warning by the errors of Europe, and guard against the introduction of a system followed by calamities so universal. Though our present debt be but a few millions, in the course of a single century it may be multiplied to an extent we dare not think of; for my part, I would rather have direct taxes imposed at once, which, in the course of a few years, would annihilate the principal of our debt. A few years' exertion in this way will save our posterity from a load of annual interest, amounting to the fifth, or perhaps the half of the sum we are now under engagements to pay.

But why, Mr. Chairman, should we hasten on this business of funding? Are our debts ascertained? The report of the Secretary of the Treasury proposes that we should not only fund the debts that are ascertained, but the unliquidated and unsettled debts due from the Continent; nor does the plan stop here, it proposes that we should assume the payment of the State debts—debts to us totally unknown. Many of the States, sir, have not yet ascertained what they owe; and if we do not know the amount of what we owe, or are to be indebted, shall we establish funds? Shall we put our hands into the pockets of our constituents, and appropriate moneys for uses we are undetermined of? But more especially shall we do this, when, in doing it, it is indisputably certain, that the incumbrance will more than exceed all the benefits and conveniences? Gentlemen may come forward, perhaps, and tell me, that funding the public debt will increase the circulating medium of the country, by means of its transferable quality; but this is denied by the best informed men. The funding of the debt will occasion enormous taxes for the payment of the interest. These taxes will bear heavily both on agriculture and commerce. It will be charging the active and industrious citizen, who pays his share of the taxes, to pay the indolent and idle creditor who receives them, to be spent and wasted in the course of the year, without any hope of a future reproduction; for the new capital which they acquire must have existed in the country before, and must have been employed, as all capitals are, in maintaining productive labor. Thus

the honest, hard-working part of the community will promote the ease and luxury of men of wealth; such a system may benefit large cities, like Philadelphia and New York, but the remote parts of the continent will not feel the invigorating warmth of the American treasury; in the proportion that it benefits one, it will depress another.

But let me return to the question; does it not require, Mr. Chairman, I say again, that we should ascertain the debt we owe, before we proceed any further in the business? If gentlemen deny this, let me bring forward the old argument: North Carolina has acceded to the Union; she is a State of no inconsiderable importance; she has an equal right to a voice on this important business with any State in the Union; but she is not represented here while we are funding the debts, not of ten or eleven States only, but a debt in which she must participate according to her proportion of representation; she may urge that we have no right to assume or transfer her particular debt, from her own on to other shoulders; at least, after the declaration she has made, there is a delicacy in doing it without her presence. Things like these, pressed, without allowing time for deliberation, may justly give umbrage to all who are concerned for the independent privileges and sovereignty of the societies confederated under this Government; it may rouse the spirit of discord, and sound the alarm, at a time when unanimity or mutual forbearance is so requisite. Will all the States be satisfied that Congress should assume their debts under a pretext of easing them, when it must be well known that the General Government will thus have it in its power to call upon them to discharge the obligation, in an evil day when they are unprepared? We know nothing of the future circumstances which may take place, or how far this Government may attempt to depress or injure individual States; we ought to guard, with the greatest degree of caution, against every danger of this nature.

Under these impressions, sir, I am led to conclude, that it is becoming the wisdom of Congress to postpone the consideration of the remaining propositions. Let us endeavor to discover whether there is an absolute necessity for adopting a funding system or not. If there is no such necessity, a short time will make it apparent; and let it be remembered what funds the United States possess in the Western Territory. The disposal of those lands may perhaps supersede the necessity of establishing a permanent system of taxation. The Secretary of the Treasury is directed to report on this head to the House, and perhaps that report may show us that this property is likely to be more productive than we at present apprehend; these considerations induce me to wish that the further consideration be postponed for the present.

MR. SHERMAN.—The motion before the committee relates to the second resolution. The objects brought into view by the gentleman last

FEBRUARY 9, 1790.]

Public Credit.

[H. OF R.]

up, are many of them unconnected with it, though they are severally objects of great importance. I think whatever doubts there may be with respect to the advantage or disadvantage of a public debt, we can none of us hesitate to decide that provision of some kind ought to be made for what we have already incurred. It is true, if we were about now to borrow money, it would be highly prudent to consider whether the anticipation would not be repaid by a speedy collection of taxes or duties to the amount; but when a debt is incurred beyond our present ability to discharge, we ought to make some provision for its gradual extinction, and, in the interim, pay punctually the interest; now, this resolution goes no further.

Some of the propositions which follow go further than this. They propose perpetual annuities, and talk of irredeemable stock. This is more than I am willing to agree to. I think it prudent for us to get out of debt as soon as we can; but then I do not suppose we can raise money enough to pay off the whole principal and interest in two, three, or ten years. If I am right in this, we ought to agree to some mode of paying the interest in the interim.

Mr. SMITH, (of South Carolina.) The report of the Secretary of the Treasury contains a proposition for the establishment of a sinking fund. I wish the gentleman who brought forward the resolutions under consideration, had included that part of the system in his propositions, as it might have had a tendency to ease the mind of the honorable gentleman from Georgia, and to have shown him that the public debt is not intended to acquire the permanency which he dreads. If our present debt cannot be paid off at once, all that can be done is to provide such funds for its gradual extinction as will morally ensure the object.

The gentleman has contended, that public funding is a public injury. I agree with him that funding a debt to a very great amount may be very injurious; yet funding a small debt is beneficial. But whether this is, or is not a fact, is not the object of our present inquiry; we are not in a situation to determine whether we will or will not have a public debt. We have it already, and it appears to me to be a matter of necessity that we should appropriate some funds for the payment of the interest upon it. When we consider the nature of the contract, for what it is we owe the money, and our ability to comply, it follows, of consequence, that we must pay; it follows as close as the shadow follows its substance; or as close as the night follows the day. The only question that can come before us is, the mode of doing it.

With respect to that part of our debt which is yet unascertained, I would just beg leave to observe, that it is not our fault that it remains in an unsettled state; neither is it the fault of those who have brought in their accounts and had them liquidated. Hence, it appears to me extremely hard that we should refuse to provide for the payment of those to whom we

acknowledge ourselves to be indebted, because there are others whose claims against us are not yet adjusted. The argument, therefore, which relates to this point, as well as that which relates to the Western Territory, will apply ten years hence as well as now, and form an eternal pretext for deferring the business.

Mr. JACKSON begged the committee would not understand him, that he was against paying the debts of the United States; he had no such object in view. The sinking fund alluded to by the gentleman from South Carolina, had not escaped his attention; but he very much doubted whether it ought to be relied on to effect the purpose he had in view. He believed sinking funds were generally considered as a kind of stand-by, or subsidiary fund, always at hand to be mortgaged when money was proposed to be raised on any exigency of the State. He conceived the committee were precipitating the business, for the reason he before assigned. He would therefore endeavor to obtain their sense on this point, by moving that the committee rise.

This motion being seconded, it was put, and lost by a considerable majority.

Mr. STONE supposed, that this resolution did not bring forward the question, whether we were to have a permanent funding system or not, it only proposed something for the payment of the interest, and discharging the principal as fast as we could; but he would be glad to know what was the sense of the committee on this point.

Mr. BLAND inquired why there was a difference in the wording of the two first resolutions? It appeared to him to lead to that important question, whether the debts of the United States should be funded, on the principles of the report or not? If the gentleman who brought forward the resolutions would explain his intention, he should be able to judge whether it would be proper to amend the resolution or not. It appeared to him to imply that a discrimination was intended, to prevent which it would be proper to change it, so as to read:

Resolved, That adequate provision ought to be made for fulfilling the engagements of the United States in respect to their domestic debt.

Why a discrimination should be made between foreigners and our own citizens, I am at a loss to account; perhaps the necessities of the United States may be urged as a reason: but have we inquired into our capacity to fulfil our engagements, generally or specially? It appears to me that we have voted unanimously to do justice to our foreign creditors, before we make any inquiry into our ability. By this, perhaps, we have deprived the domestic creditor of a full participation in what we are able to perform; if so, it may be a reason why we discriminate between them.

Mr. FITZSIMONS said, that the circumstances of the foreign debt were such as left no choice in our power, according to the plan proposed by the Secretary of the Treasury; but we have it in our power, and are recommended to make a

different arrangement with respect to the domestic debt. I stated, when I introduced the resolutions, that they were intended to bring the Secretary's plan fairly before the committee. This resolution is differently worded on that account; but it may be observed, that the foreign creditors are not here to make a contract with the people of the United States, but the domestic creditors are; and we may hold out a modification to them for their acceptance. With respect to the means by which we shall be enabled to pay the interest and principal of our debt, this resolution has nothing to do, it leaves it to the consideration of the committee; and every gentleman will be perfectly at liberty to propose and support such as he supposes to be most suitable to our abilities.

Mr. BLAND then proposed to substitute a resolution respecting the domestic debt, similar to that adopted respecting the foreign debt, if it was in order. He thought it would decide the question, whether there should be a discrimination between the foreign and domestic creditor, and would leave the committee equally free with respect to the means that the one now before the House did.

Mr. LIVERMORE.—I do not clearly understand the import of the resolution before the committee. It seems worded rather in a doubtful manner. If it mean, that funds ought to be appropriated for the payment of the interest and principal of the domestic debt, as the amount appears on the face of the certificates, I shall be totally against it; whether it pointedly carries that meaning or not, I cannot say.

For my part, I consider the foreign and domestic debt to carry with them very material distinctions. The one is not like a debt, while the other has all the true qualities of one. However gentlemen may think on this subject, there is a great difference between the merits of that debt which was lent the United States in real coin, by disinterested persons, not concerned or benefited by the revolution, and at a low rate of interest, and those debts which have been accumulating upon the United States, at the rate of six per cent. interest, and which were not incurred for efficient money lent, but for depreciated paper, or services done at exorbitant rates, or for goods or provisions supplied at more than their real worth, by those who received all the benefits arising from our change of condition. It is within the knowledge of every gentleman, that a very considerable part of our domestic loan-office debt arose in this manner. It is well known that loan-office certificates were issued as a kind of circulating medium, when the United States were in such straits for cash, that they could not raise the necessary supplies in any other way. And it is very well known, that those who sold goods or provisions for this circulating medium, raised their prices from six to ten shillings at least.

There is another observation I would beg leave to make. The prices at which our supplies were procured were such, even in hard

money, that it might be said specie had depreciated, or, what amounted to the same thing, the commodities were sold for more than their current price; in many cases, half the price would now purchase the same thing. If so, there is as much reason that we should now consider these public securities in a depreciated state, as every holder of them has considered them from that time to this. There was a period at which they were considered of no greater value than three or four shillings in the pound; at this day they are not at more than eight or ten. If this, then, is the case, why should Congress put it upon the same footing as the foreign debt, for which they received a hard dollar for every dollar they engaged to pay? Could any possible wrong be done to those who hold the domestic debt, by estimating it at its current value? I do not speak of those only who have speculated in certificates. With respect to them, I do not see how a difference can be made. By the resolutions of Congress, and from the face of the papers, it appears that they were transferable.

It may be said, that there was some part of the domestic debt incurred by loans of hard money. There might be a small part lent in this way, but it was very small indeed, compared with the whole of the domestic debt. It is in the memory of every gentleman, that, before the beginning of the revolution, every State issued paper-money; it answered the exigencies of Government in a considerable degree. The United States issued a currency of the same nature, which answered their purposes, except in some particular cases, and these were effected by loans of certain sums of hard money. If any distinctions are to be made among the domestic creditors, it ought to be made in favor of such only, and that in consequence of the origin of the debt; while the great mass given for the depreciated paper, or provisions sold at double prices, ought to be liquidated at its real value. I cannot think it injustice to reduce the interests on those debts. I should therefore be against passing this resolution, if it carries in it the idea of paying the principal and interest, according to the face of the paper. It is well known, that a large proportion of this domestic debt was incurred for paper-money lent. To be sure Congress acknowledged its value equal to its name; but this was done on a principle of policy, in order to prevent the rapid depreciation which was taking place. But money lent in this depreciated and depreciating state, can hardly be said to be lent from a spirit of patriotism; it was a mere speculation in public securities. They hoped, by putting their money in the loan-office, though in a depreciated state, to receive hard money for it by and by. I flatter myself this prediction will never be effected.

The Secretary of the Treasury has offered some alternatives to the creditors, out of which they may make their election; but it seems to me that they, all of them, propose a reduction in the principal and interest, that they may

FEBRUARY 9, 1790.]

Public Credit.

[H. OF R.]

have an annuity of two-thirds, at six per centum, or for the whole sum at four per centum, or they may accept of the other terms. Though this may make a reduction favorable to the public, yet this is not such a reduction as justice, in my opinion, requires; and as the resolution before the committee is intended to make way for the adoption of those principles, I shall vote against it, though I would rather it was passed over for the present, in order to see what is the sense of the House on making a specific provision for the payment of the debt.

Mr. BLAND.—If we go into a discussion of the merits of the public creditors, I am clearly of opinion we shall never know where to stop. It would be impossible to fix a satisfactory point for the discrimination to stand at. My motive for rising is to settle the principle, and I am not afraid of facing it. I am one of those who will go as far as any man in fulfilling, to the utmost of our power, every public contract, and paying to the utmost farthing the *bona fide* debts of the United States.

When we speak of the difference between the foreign and domestic debt, are we aware of what we talk? Have the securities changed hands by the transfers which have taken place? The foreign debt is now become, in part, the property of the citizens of the United States, and a great part of the domestic debt is alienated to foreigners. Where, then, is the discrimination? Are not the moneys for the payment of the principal or interest of both, to come out of the same Treasury and resources? If these are facts, why shall we hesitate to declare that we will make equal provision for all? This is my object; it is not to inquire whether we have made with the one favorable, with the other unfavorable contracts, because what is done cannot be remedied. If I am seconded in bringing forward the object which my motion had in view, I shall be glad to attend to the discussion; but if not, I shall sit down contented.

Mr. PAGE was glad that the question had been asked the mover of the propositions on the table what was the object of the resolution now under consideration, because it was liable to be misunderstood. But now, he presumed, the answer had satisfied every gentleman's mind.

The gentleman from New Hampshire was pleased to observe, that foreigners were not interested in the late revolution; that what they did was from such motives as demanded our gratitude; but our citizens were deeply interested, and, I believe, if they were never to get a farthing for what is owing to them for their services, they would be well paid; they have gained what they aimed at; they have secured their liberties and their lives; they will be satisfied that this House has pledged itself to pay to foreigners the generous loans they advanced us in the day of distress. If we were to make distinctions adverse to their interests, we could never expect from them a further favor in the future exigencies of this country. But we may also look with confidence at home for loans and

services; on such occasions they will be supplied us on the principles of patriotism; the adoption of the first resolution was therefore politic and just, but the motion of my worthy colleague is not necessary. I feel for my fellow-citizens who have gloriously exerted themselves in the salvation of their country by their services in the field, or the supplies which they yielded, as much as any man can do. I acknowledge the debt of gratitude the community owes to those select citizens, and am willing to pay it as far as we possibly can; but they cannot, they will not complain of the deference we have shown to others, whose particular situation merited such regard at our hands.

Mr. SCOTT.—I find myself obliged to consider the Government of the United States in a very different situation, with respect to our foreign and domestic creditors. With respect to the foreign debt, we, the representatives of the United States, are vested with full power, and we are bound in duty to provide for the punctual payment according to the nature of the contract; but when I turn my eyes to the domestic debt, I find myself in a very different situation. I conceive myself a mere arbiter among the individuals of which the Union is composed. A part of the people have a claim upon somebody. I think that claim is against the people at large, and we are not only to provide for the payment of that claim, if just, but to determine whether that claim is just or not. One part of the community applies to us to recover of the other what is due to it; the other says, the debt is too large, it is more than is justly due; you must try and determine between us, and say what part is just, and what is not. This brings clearly into my view the whole subject, as a thing within the power of Congress to new model or modify, if we find that justice demands it; but we have no such authority with respect to the foreign debt. It is very clear to me, that we have the power to administer justice and impartiality among the members of the Union; and this will lead me freely to assert, that we have not only authority, but it is our duty, if, on examination, we find that not more than half the sum that is claimed is justly claimed, to strike off the other half. If we find, on full investigation, that the whole is just, we must no doubt provide for the payment of it, in such sort as to do complete justice. Which of these may be found to be the case in reality, when well examined, I will not pretend to say; but, at any rate, we are in the dark at present, inasmuch as we do not know the real amount. We cannot say whether it is possible for us to pay it; we cannot know whether it is just or not until we know what the claim is, as to quantity and quality. I do believe we are now walking on the brink of a precipice, that it will be dangerous for us to step too hastily upon.

I wish the subject to be duly considered; I wish every man in this House was of the same opinion with me, in one respect, that we are judges to determine matters of right and equity.

H. OF R.]

Public Credit.

[FEBRUARY 9, 1790,

We are, in fact, as a court of law: can we propose to decide with wisdom, whether the claims are just or not until the claims are exhibited? I presume we cannot. I am clear for going into the consideration of a resolve of the kind now before us, when these doubts are removed from my mind. Rationally, I cannot consider in what manner the debt can be paid, until these points are settled. Perhaps the resolutions might be worded in such a way as to give all the credit to the public securities, which they could derive from a more precise funding system, while, at the same time, sufficient room should be left for settling the great points which I have in contemplation. I have no idea, Mr. Chairman, that these securities can be raised to their nominal value by the most explicit vote of this House. I do not believe they can acquire that stability which some gentlemen imagine. I am led to view the subject in this light from experience. I have seen, within a few days, a warrant from the Treasury for one hundred dollars, payable in the month of March, which was sold for eighty dollars cash. Here was a loss of one-fifth upon a note of which neither the seller nor buyer could suppose punctual payment would be refused. Now, if this is the case with public debts of a certain nature, we cannot reasonably expect that funding our debts will raise the public securities to any thing near their nominal value. Indeed, I believe it would have very little effect upon them. Men in business would give little more for a certificate drawing four dollars per cent. per annum, than they would now. Supposing, then, the public credit will be unaffected in a great degree, by the present measure, I would propose to take time for the purpose of ascertaining the justice of these claims. I will, therefore, move to amend the resolution now before us, by adding these words to it: "as soon as the same is ascertained and duly liquidated."

Mr. BOURNOR.—I am glad to see gentlemen bring into view principles on which to determine the great question before us; because, when they are once established, they will enable us to proceed with certainty to a decision. If the principles brought forward by the honorable gentleman from Pennsylvania are just, his arguments are of great weight; but if, on consideration, we shall find that the principles are unjust, then I presume, however cogent the system of reasoning he has founded thereon, it will not prevail. He supposes we sit here as judges to determine the different claims of the creditors of the United States. If we are in that predicament, I agree we ought not to proceed but on full evidence and hearing of those claims. But I have never hitherto been led to consider Congress in this light, nor can I now consider them in any such point of view. I consider the Congress, who entered into these engagements, as complete representatives of the United States, and, in their political capacity, authorized, by the articles of Confederation, to contract the debts for which our public faith

is pledged; instead of being judges, or arbitrators, on this occasion, we are parties to the contract; nor is our case varied, by the dissolution of the old Confederacy, because the existing Constitution has expressly recognised the engagements made under the former. All debts contracted before the adoption of this Constitution, shall be as valid against the United States, under this Government, as under the Confederation. Now is the moment to establish the principle; if the Constitution admits the borrowing of money, or paying for supplies, to be a contract, we are one of the parties to this contract, and all idea of being arbiters must vanish. We cannot judge in our own cause. The case will now stand clear; we owe a debt, contracted for a valuable consideration. The evidences of our debt are in the hands of our creditors, and we are called upon to discharge them; if we have it in our power, we ought to consider ourselves bound to do it, on every principle of honor, of justice, and of policy: but as we have not the ability to pay the whole off, nor, perhaps the whole interest, we must endeavor to make such a modification as will enable us to satisfy every one. Not that this modification shall take place without the consent of the creditors; this would be improper and unjust. Each party is as much to be consulted on this occasion, as it was at the time of the first contract. If, then, Congress is bound by the first contract, no gentleman can say we are judges. If we are parties, what would be the decision before a Court of Justice? The creditor produces my bond, by which I have bound myself to pay a hundred dollars; I cannot gainsay the fact; no man is allowed to plead that he has made a bad bargain, and that, at other times, he could have purchased what he got of the creditor at half the sum he was forced to allow him. The inquiry with the Judges is not, whether the debtor made a good bargain or not, but whether he did it fairly and voluntarily. We are in the same predicament if we fairly and honestly received the *quid pro quo*; we are bound, as parties to the honest performance of the contract, to discharge the debt; otherwise, what avails the clause in the Constitution, declaring all debts contracted, and engagements entered into, before the adoption to be as valid against the present Government as they were under the old Confederation? The debt was *bona fide* contracted; it was acknowledged by the United States; and the creditor received a certificate as the evidence of his debt. It is immaterial to us what he did with it. I confess, if the original holder was to come forward, and say that he had been robbed of such evidence, we ought not to pay it until the point was ascertained in a Court of Justice.

I can by no means consider the Congress of the United States judges on this occasion. We are not called upon as arbiters; our creditors justly consider us as parties, and call upon us for the payment of what we acknowledge to be due. They require at our hands the discharge

FEBRUARY 9, 1790.]

Public Credit.

[H. OF R.]

of the engagement, of which they present the written evidence. I confess we are not warranted to charge our constituents with unreasonable burthens; and therefore, I presume, we are authorized to make propositions to our creditors for a more convenient mode of payment than what was originally contracted for; but this is optional with them. If they refuse to listen to us, and insist upon their just claim, we must satisfy it as far as we have the ability; thus far, I presume, we may fairly go, in regard to the domestic debt.

Some observations were made to point out a difference between the foreign and domestic debt. I admit there is a distinction, and that in another instance, which has not been mentioned. His Most Christian Majesty, when he first became our important ally, presented Congress with a large sum of money; but this being insufficient to procure us the necessary supply of military stores, a loan was made us from the royal coffers of France. But this also being inadequate, we endeavored to obtain further aid from foreigners. The credit of the United States was so much impaired, as to hold out but little encouragement to individuals to trust us with their money. The French King added another mark of his distinguished attention: he guaranteed the loan, and the money was obtained—obtained of the widow and fatherless; of persons whose all depended upon a punctual payment of the interest. On this point, I could refer you to letters from our commissioners in Europe, who beg that we may not put them on this business, unless we are certain that the United States will carefully provide for the payment of the interest; because, in case of failure, hundreds must perish for want. This is another motive why we should attend to the performance of our contracts; and I will repeat again, it is what we are called upon to do upon every principle of honor, justice, and policy.

MR. LAWRENCE.—The observations of the honorable gentleman from Pennsylvania, (Mr. SCOTT,) if I rightly understand them, apply to the principal, and not the interest of the domestic debt. He imagines it to be too large; that is, that the individual who performed services, or rendered supplies during the late war, received evidences of rather too great nominal value; and that, at this period of time, it is necessary to investigate every particular claim, and judge whether the balances are respectively due or not. The gentleman has distinguished between the foreign and domestic creditor on this point; he supposes the foreign debt ought not to be re-examined, because the holders of it are unconnected with our Government. They lent us money, and we are bound according to the precise terms of the contract. Here I agree with him; but that there should be a solid distinction in justice between the foreign and domestic creditor is to me a singular thing. It was observed, that the citizens of America would be well paid for their loans, supplies, and services, by the benefits and profits arising to

them by the revolution; but are we to sacrifice the claims of individuals of the community for the advantage of the whole? Who are benefited by the revolution? Every citizen. Then every citizen is bound to contribute his equal part of the expenses attending the procurement. Should those of our citizens who furnished the supplies, or loaned their money, be the only class who are injured? Every citizen is bound to pay according to his ability, because every one has participated in the benefit: then the only question to ask is, whether this discrimination should be made to ascertain or new proportion the debt? This will lead me to inquire whether it is proper for us, after the resolution we passed at the last session, after the resolution we have just now passed, to scale the public debt anew? Shall we say that the evidence carries on its face fraud and deception? I contend we shall not. Why shall we liquidate a debt which is established upon a complete and final settlement? From the face of the evidences arises the demand, and that is the demand we are to make provision for. Shall we go to our officers and soldiers who served during the late war, individually, and say that the balance struck to be due to them is an imposition on the public, when the Government itself has determined that they were entitled to such particular reward? If, at the time those securities were given to them, Government had paid them in money, would any gentleman now contend that their accounts ought to be reliquidated, and every individual called upon to refund a part of what he acquired in conformity to the laws of his country? Certainly no gentleman would contend for such a measure. How is the nature of the case altered from the circumstances of our having been so unfortunate as to pay those worthy men with a certificate in lieu of the money which was due? The nature of the case, I conceive, is perfectly the same; and we are in duty bound to make a full compensation. The face of the paper expresses what that is, and it is to be our guide; the demand surely is not to be lessened.

Do gentlemen suppose that the United States were supplied at a higher rate than individuals? The contrary, I believe, is the fact, and it seems to arise from the nature of the thing. It was in the power of the public to give such prices as they thought proper, because they had power to take the property by force; whereas, the individual, who was supplied by his neighbor, charged him at such rate as was satisfactory. If the Government had generally given such price, there would have been no necessity of having recourse to the national strength for the purpose of obtaining the provisions and services necessary for the army. From this consideration, I am led to believe, that the supplies were furnished to the public cheaper than the market value.

Upon what principle is it that we are to go into this investigation? Will it lessen the demand so far as to indemnify us for the expense?

H. of R.]

Public Credit.

[FEBRUARY 9, 1790.]

I apprehend not. It will introduce a principle of uncertainty—an evidence, that to-day is worth a hundred dollars, to-morrow may not be worth the half of it; and will, consequently, give rise to that spirit of speculation which has been so earnestly deprecated on this floor.

The honorable mover of the amendment contends that we ought not to enter upon a permanent provision for the discharge of the domestic debt until we have ascertained its amount. Does he mean the sum total, with accuracy? If so, our proceedings will be delayed beyond the term of our existence. I contend, sir, that we know, as far as we can know, at this moment, what the amount of our debt is, except about two millions of dollars, principally arising from the remnant of the old Continental money, which has not yet been brought into the Treasury of the United States. But this is a subject which may be submitted to the discretion of the committee, and decided upon, as well from our present information as any we are likely to get in future.

It has been asked, whether it is likely to be beneficial or proper to appropriate permanent funds, in the manner proposed by the second resolution? My mind, Mr. Chairman, inclines to approve of permanent funds for that purpose; because, I believe, more public benefit will result from such a measure than any other; it will destroy that fluctuation which renders a public debt injurious, and will give it that stability necessary to introduce it as a circulating medium, by which numerous advantages will arise to the agricultural, commercial, and manufacturing interests. I therefore shall be inclined to favor the original motion, and reject the amendment; because our debt is already ascertained, and duly liquidated, except the two millions of dollars which it is in our power, as well, I say, to decide upon now, as at any future period.

Mr. JACKSON said there were, most surely, principles on which to ground a discrimination betwixt a foreign and domestic creditor; if there was no other, there was this, that the domestic creditors are those that are bound to pay the foreign creditors their demand; they ought consequently to do justice to others, by a punctual payment, before they require a discharge of their own claims.

Mr. AMES did not conceive it material to inquire, whether there be an equal obligation on the people of the United States to pay their foreign and domestic creditors, when they meant to pay both; but if it is intended to reduce the principal of either, it will lead us into a discussion of the principles on which such a measure ought to be founded. The honorable gentleman from Pennsylvania, (Mr. SCOTT) probably intends by the amendment, to have a reduction of the debt; I have, said he, so much respect for the good sense and upright intentions of that honorable gentleman, that I will not impute to him unworthy motives; nor do I believe that he governs his conduct in private life by maxims which I suspect to be contained in the amendment now before us. I would not

be understood, by any means, to convey an improper reflection upon the opinions of any one. The science of finance is new in America; a gentleman may therefore propose the worst of measures with the best intentions. What, let me inquire, will be the pernicious consequences resulting from the establishment of this doctrine? Will it not be subversive of every principle on which public contracts are founded? The evidences of the debt, possessed by the creditors of the United States, cannot, in reason, justice, or policy, be considered in any other light than as public bonds, for the redemption and payment of which the property and labor of the whole people are pledged. The only just idea is, that when the public contract a debt with an individual, that it becomes personified, and that with respect to this contract, the powers of Government shall never legislate. If this was not the case, it would destroy the effect it was intended to produce; no individual would be found willing to trust the Government, if he supposed the Government had the inclination and power, by virtue of a mere major vote, to set aside the terms of the engagement. If the public in such a case is, as I have said, personified, what conceivable difference is there, except in favor of the creditor, between the public and an individual in the case? If, then, the public contract is a solemn obligation upon us, we are bound to its true and faithful performance. What is the object for which men enter into society, but to secure their lives and property? What is the usual means of acquiring property between man and man? The best right to property is acquired by the consent of the last owner. If then, an individual is possessed of property, in consequence of this right, how can Government, founded on this social compact, pretend to exercise the right of divesting a man of that object, which induced him to combine himself with the society; every gentleman may determine this question by his own feelings. Shall it be said that this Government, evidently established for the purpose of securing property, that, in its first act, it divested its citizens of seventy millions of money, which is justly due to the individuals who have contracted with Government! I believe those gentlemen, who are apprehensive for the liberties and safety of their fellow-citizens, under the efficiency of the present constitution, will find real cause of alarm from the establishment of the present doctrine. I have heard, that in the East Indies the stock of the labor and property of the empire is the property of the Prince; that it is held at his will and pleasure; but this is a slavish doctrine, which I hope we are not prepared to adopt here. But I will not go further into a consideration of the idea of discrimination. I will ask, though, is this country ever to be in a settled and quiet state? Must every transaction that took place, during the course of the last war, be ripped up? Shall we never have done with the settlement and liquidation

FEBRUARY 9, 1790.]

Public Credit.

[H. or R.]

of our accounts? If this is the case, what kind of rights will the people have in their property? None but the will of the Government. And will this tend to the establishment of public credit? What security will they derive from a new promise? None. They well know that this can be set aside equally with the other, provided it is deemed expedient. What mischief will follow this idea? The public faith destroyed, our future credit will be a mere vapor; and all this risk is to be run for the sake of—what? Of saving something to the public? No; the public will lose by the transaction more than they will gain; our justice will be impeached, and foreigners will feel themselves happy, that they have it in their power, by violence, to procure to themselves that which we deny to our own citizens. Such a mere arbitrary act of power can never be exercised on the part of Government, but to the destruction of the essential rights of the people, and will finally terminate in a dissolution of the social compact.

Mr. LIVERMORE.—The arguments advanced by the gentlemen from Massachusetts and New York prove too much, and therefore prove nothing. That the late Congress had, at all times, from their first institution, the power to contract debts, for the benefit of the United States, cannot be denied; and that we are authorized to pay such debts, is equally certain. But this by no means contravenes the opinion of those gentlemen who think, that the whole may be properly considered and discharged at the rate which justice requires; for the same argument which is urged for the payment of the public securities at their nominal value, might be urged in favor of paying off the Continental debts of credit, according to the sums expressed on the face of them. They were issued with as much confidence, and were received with as firm reliance on the public faith, as any species of securities whatever; yet, it seems to be given up on all hands, that the owners of the old Continental paper bills ought not to be paid according to their nominal value. Perhaps it may be said, on comparing them with the loan-office certificates, that the United States had not the benefit of that money; but had they not the value of it? It will be answered, that when the money was first issued, Congress had nearly the value for it; but afterwards the money greatly depreciated, and they had not the full value for it, yet the obligation to pay it is as explicit as words can make it. No advocate will be found for making all that money good. It has been thought proper, and it is just, that it should be reduced from its nominal value; if it is reduced on a scale of one hundred for one, the holders of it, I dare say, would cheerfully receive that sum. If the United States then had value for it, and they had not value for the certificates, who can doubt of the justice of reliquidating, and duly ascertaining the public debt? All I contend for is this, that the present Government pay the debts of the United States; but as the domes-

tic part of the debt has been contracted in depreciated notes, that less interest should be paid upon it than six per cent. Six per cent. was the usual interest upon the certificates when they were issued by Congress; but if the possessor has received no part of his six per cent. until this time, that now the principal and interest be consolidated into one sum, hereafter to bear an interest of three or four per cent.; then those citizens, who now stand as creditors of the Union, will find that part of their property has been the most productive of any, much more productive than the property of the citizens of the United States has generally been. Those who lent their money to individuals before and during the late war, generally lost or suffered by the depreciation some three-quarters of the capital; nay, some thirty-nine fortieths. But is this the case of the domestic creditor of the United States? No! he will preserve his property, through the chaos of the revolution, and be put now in a more eligible situation than he was at the time he loaned his money. The capital sum which he lent is now increased, and very rapidly increased, for six per cent. is a very large interest. He will now receive 160 dollars for his 100, and putting that into the funds, at three or four per cent. he will find it more productive than any other method in which he could employ his money; for, I contend, that neither improved, nor unimproved lands, will give an interest near half of what the public creditor will receive. People who have held real property have sunk, with the taxes, and other losses, the greatest part of it; but the public creditor has let his run through the confusion of the revolution, and nevertheless gets it returned to him safe; and, so far from being impaired, that it has prodigiously accumulated, not only in a manner superior to the property of his fellow-citizens, but superior to the foreigner who lent his money at four per cent. Justice and equity require, on the behalf of the community, that these people be content with reasonable profit. They ought not, therefore, to receive, on a funded debt, so much as six per cent.; whether three or four, or something between three and four, would be a proper sum, I shall not pretend to determine. But I consider it a proper question for this committee to consider, in justice to those who are to pay, as well as to those who are to receive; nor I do believe the domestic creditors would be dissatisfied with it, provided they were sure of receiving this annual interest; for their debts, on such a footing, would be better to them than if they were established on an extravagant plan that could never be effected, but which would be likely to throw the nation into confusion. Every body has suffered more or less by the depreciation, but the public creditors very little, in regard to that part of their property which they had deposited in the hands of Government: it is true, that it has slept; but it is now waked up to some purpose.

H. of R.]

Public Credit.

[FEBRUARY 9, 1790.]

Mr. SHERMAN.—I do not differ much in principle from the gentleman who spake last, from Pennsylvania, (Mr. SCOTT) but I do not extend my views so far as he extends his, in the exercise of the power which he contends is vested in this body. I look upon it, that legislators act in a threefold capacity; they have the power to make laws for the good government of the people, and a right to repeal, and alter those laws as public good requires; in another capacity, they have a right to make contracts; but here I must contend, that they have no right to violate, alter, or abolish; but they are obliged to fulfil them. The Legislature stands in another capacity, what is called judicial, between the Union at large and those creditors with whom she has entered into stipulations; there can be no other solemn judge on such occasions, because no court of law is capable of giving redress; they cannot issue an execution against the sovereign power, and enforce their decrees; therefore, any creditor who has money due to him from the State, has a right, by petition, to apply to the Legislature, who has the sole power of doing him justice. When applied to in that manner, the Legislature has a right to examine, or appoint another to examine, how far the claim is just or unjust: this power has been exercised, with respect to the greatest part of the claims against the United States. There has been a liquidation of these accounts, and the specie value has been ascertained of the depreciated security. When bills of credit were first emitted, it was declared that they should be redeemed with specie, indeed they passed as such at first; but the opinion of their real value was changed by common consent; those that were put into the Continental loan-offices were always payable in the same species of money. If they had been paid in paper currency, the owners of them would have suffered a loss and injury: in justice, therefore, to the holders, the Government agreed to fix the value of the loans according to the current rate of paper bills, at the time they were left in the office: all certificates were ordered to be liquidated in this manner, the same could not be done in favor of those who had left their other property with the public, and took the Continental bills as a security; because they passed as a circulating medium, and went from one hand to another, by which means every one who received them, and kept them, though a small space of time, suffered loss; in that way it operated as a tax, and perhaps as equitable and as just a one as could have been any way apportioned; therefore it could not have been supposed equitable, that the last possessor should receive for these bills the nominal sum in specie. The Government, therefore, interfered in order to do justice; but when they had entered into a contract, founded on specie value, liquidated and ascertained, I do not see but the public are bound by that contract, as much as an individual, and that they cannot reduce it down in either principal

or interest, unless by an arbitrary power, and in that case there never will be any security in the public promises. If we should now agree to reduce the domestic debt to four per cent. the world may justly fear that we may, on some future occasion, reduce it to two. If this Government once establishes such a principle, our credit is inevitably gone forever. I presume the gentleman does not found his motion upon the idea that there has been fraud and injustice committed on the one side, or imbecility or oversight on the other; if there was, it would be a good reason why an inquiry should take place in such cases. But though the Legislature may judge of accounts exhibited against the Government, and determine on them, their power ought not to be extended to judge of those already acknowledged; unless it be for the special reasons which I have just mentioned. From these considerations, I should be inclined to vary the motion for amendment, and insert the word liquidated before domestic debt, so as to provide permanent funds for the payment of interest on the liquidated part of the debt only.

Mr. GOODHUE asked the gentleman, whether an individual ought to suffer for the fault of Government during the late war? In consequence of an impaired credit, the United States were obliged to give, on some occasions, acknowledgments for more than the real value of the commodity. These securities depreciated, and were sold for a sum less than the value of the goods they had been given for; but is that a reason why we should refuse, when we have it in our power, to discharge them according to our promise? He presumed, that if the persons who furnished the army with supplies, had conceived that Congress meant to avoid the full payment of the stipulated price, they would not have got the supplies at double the rate they procured them. If it was the intention of gentlemen to take advantage of the depreciated state of the securities, it would be wisest to defer all further consideration of the subject at present, for the purpose of availing ourselves of a still greater depreciation, which such a measure would inevitably bring about.

Mr. FITZSIMONS said, that it was not his idea that the committee should pledge themselves to any particular rate of interest; the proposition was a general one, and pledged them to nothing more than making a permanent provision for the payment of the interest, and gradual discharge of the principal. He hoped, therefore, that gentlemen would not object to it from a supposition that they would pledge themselves by giving it their support to vote hereafter for six, five, four, or three per cent.

Mr. SCOTT.—A great deal has been said on a great principle that must be attended to in some stage of this business; but gentlemen have been led into a more extensive discussion on the doctrine of discrimination than I had any idea of when I proposed the amendment. It has been urged by some of the gentlemen, that how-

FEBRUARY 9, 1790.]

Public Credit.

[H. OF R.]

ever just my principle is, that the Legislature is in the quality of an arbitrator; yet we cannot adopt the amendment; others again have said, that the debt is a contract between the Government and the individual, and that we being parties we cannot be judges; for it is contrary to the principles of law, that we should be judges in our own cause. If, in national transactions like this, interesting to our own citizens only, the Government is to be supposed one party, and the individual the other party, I would ask the gentleman who is the judge? Can two parties exist in a well organized Government, to dispute about property, and have no judge? The very idea must induce the gentleman to abandon his ground. It has been said, as the foundation of an opinion, that there is a great similitude between a certificate and a bond that is brought into court to demand payment upon; that no opposition can be made; that no plea can be entered; but I would wish to ask the gentleman who made the remark, as a professional man, whether the want of consideration would not be a good plea? In Courts of Equity, relief can be given against *prima facie* evidence.

The honorable gentleman from New York, (Mr. LAWRENCE,) is opposed to the amendment, because of the impropriety of going into a second liquidation of the debts. I did not expressly say, whatever my ideas may be, that I wished for a second liquidation. It was not necessary for my purpose, that I should have expressed such a desire, because it is very well known, that there are debts, to a very considerable amount, unliquidated. He urged this as a reason why we ought to defer the present measure; because, going into a provision for a part of the debt only, may put it out of our power to make an equal provision for those who are equally deserving. The honorable gentleman from Massachusetts, who followed the gentleman from New York in opposing the amendment, supposes, that in contracts of this kind, the Government becomes personified; that doctrine is supported on principles different from what I have heard supported on this floor. I remember, on a subject somewhat different from this to be sure, to have heard it said, that a political body was a body without a soul; if you make it a person, it must be a person without a soul; if such, it is not the subject of any moral obligation.

But I believe the distinction I took between the situation in which the Government stands, between the foreign and domestic creditors, has not been adverted to. Suppose, in time of war, the late Congress had found themselves under the necessity to enter into a contract with twenty of our fellow-citizens, which they afterwards discovered would bring absolute ruin upon the rest, could they not attempt a modification of such contract? Is there any power of Government more frequently exercised than that of interfering with and modifying private contracts? In London, houses have been razed to their foundations; men's lands have been taken from

them, and yet it was never thought that the Government ever acted wrong in the exercise of authority; private property must not only be subject to a change of shape, but sometimes to an absolute extinguishment, rather than a nation should sink, or the public safety be endangered. This power has been exercised at home; paper money, at one time, passed current, and was of value nearly equal to gold or silver; but the value expressed on the face of it was that of specie itself. What did the Government do when the depreciation had extended itself to a great degree? They laid violent hands upon it, and it was scaled. Was that a violation of the public faith? If so, was it not necessary and inevitable? Why, then, is this the only contract that cannot be violated without a breach of public faith, or the loss of public credit?

All that I am now saying is not an argument that this power should be exercised, but that it ought to be, if justice requires it. If justice does not call for the exercise of it, we may boldly assert, that some of the claims and clamors we have heard have been ill founded. I will go no further into the subject at present, but confine myself to state to the committee, that my object is to be acquainted with the amount of the public debt before we provide permanent funds for the payment of it.

Mr. LIVERMORE.—My first objection against the resolution, as proposed by the gentleman near me, (Mr. FRIZZIMONS,) was that I did not clearly understand the meaning of it, but now he has explained it; I understand what his intention is, yet I think it would be saving time and leading the committee to the main question, if we were to take into consideration the object which I attended to, namely, a reduction of the interest of the domestic debt. I would therefore move to modify the first resolution, so as to introduce the words, "a certain rate," before "interest," which would show our intention to reduce it, and then it might be filled up with three or four, as gentlemen may think proper.

Mr. BODINOT.—I am a friend to the discussion of every principle on which the great business before us may be supposed to turn, because I have a great desire that they should be settled on full information, that the public, as well as ourselves, may be satisfied with their propriety. This leads me again to notice the arguments which have been urged in favor of considering this body as judges or arbitrators between the public and the individuals who have claims upon the public.

It must appear, to the satisfaction of every unprejudiced mind, from the resolutions of the late Congress, that they acknowledge themselves a party on behalf of the public, to every engagement they entered into for services, supplies, or moneys loaned. If then it is admitted that the late Congress were parties to the contract, we must agree that our situation is precisely the same, because we stand in their shoes; and in my former argument I urged, if we are parties we cannot be judges. But the honor-

H. OF R.]

Public Credit.

[FEBRUARY 9, 1780.]

able gentleman from Pennsylvania answered this observation by saying, there can be no parties without judges, and who are to be our judges? The Constitution will answer him that question. The Judicial power of the United States is vested in the Supreme Court; no Judicial power can be exercised by the Legislature. If this was not the case, I ask whether, in the reason of things, a Legislature ought to interfere or modify a contract to which they are parties? Whether it would not be subversive of the great ends of their institution? No case, I believe, can warrant an interference, unless it is where the whole interest of the community is at stake, and likely to be injured. I, therefore, take it for granted, that in every case where no fraud is committed, for if fraud is committed, I agree with the gentleman that it vitiates the whole; but if there be none, the contract remains inviolably binding.

I mentioned also the case of a bond, and supposed that we were bound to the punctual payment of Government notes, as much upon their presentation, as a person would be bound to the payment of a bond, when it is exhibited in court. The same gentleman has appealed to me, as a professional man, to say, whether the want of consideration would not be a plea against it? I answer him, that the want of consideration in a bond, under seal, unless it was under a particular statute, or for the performance of an unlawful thing, would not be a plea. The gentleman has also adduced the case of the paper money, to show that we have a right to interfere, and modify the contract. Now, in order to understand this matter, we ought to consider that Government was contracting with an individual; that the individual, as a party, had as much to say in the contract as the purchaser. If I come to you, and offer to purchase of you a bushel of wheat, the value of which is one dollar, and I offer to give you my note for it at that price, you tell me no, I will not take it, for your credit is not equal to it; you shall give me twenty dollars, because that, on your credit, is no more than equal to one dollar. If I give you the price that you hold the wheat at, is it not settled between the contracting parties, that the note for twenty dollars is, in fact, no more than one dollar? And having been fixed, by mutual consent, to be of that value, there is no impropriety in its being declared so by either. If the Government, in such a case, find that it will work an evil of the most enormous magnitude, to discharge those notes which have been paid out, not at twenty for one, but at one hundred for one, at their nominal value, they are not to be blamed for scaling them. Now, are these two cases alike? The certificates that were issued were given for the real specie value of the commodity, or service, or they were on a liquidation of the depreciated currency they had before received. What pretext can there be set up for a re-investigation of claims so certainly decided on? The money that was due, as I have supposed, to the person for his bushel

of wheat, might have been paid off in Continental bills of credit, when the depreciation was at forty, fifty, or a hundred for one; but, in this case, Government would have done an act of injustice, they would have paid the man but half a dollar instead of a whole one. But the Government acted more generously, they agreed to give the value at the time the supplies were furnished, or the loans made. Now, can this be brought as a precedent why we should abridge the claims of the holders of the public securities? We cannot interfere, unless it arises from national necessity, that the community would be injured by doing them justice.

But is there any gentleman on this floor, who will presume to say, that such a necessity exists? The public ability is confessedly equal to the demands of its creditors; yet, from motives of convenience and expediency, it may be proper to attempt a modification of the national debt, with the consent of the creditors; and if this can be obtained, will any gentleman oppose it upon principles of honor, justice, or policy? On such an occasion, it is prudent to provide a variety of terms, because different offers may meet the approbation of different minds. This variety, I take it, is held out in the report of the Secretary; and the debt relaxed, in either way, will be as much the child of consent, as the original engagement at the first contract.

The gentleman, as an inducement for us to follow the example of other nations, has told us, that the Parliament of England has razed houses, and appropriated the property of individuals to the public service. This is all true, sir; but the Parliament were no parties to the contract by which those houses or lands were held; so have we a right to bind the citizens, in cases where they all stand equal, and where we ourselves shall not be particularly the gainers.

His last argument was, requiring us to show why this contract between the public creditors and the United States was different in its qualities from every other? By every other, I presume, he meant the cases referred to, respecting the Parliament of Britain and the paper money of America. I think I stated this sufficiently clear before; they are widely different, because Congress is a party to the contract, in the other they were not. So, on the principle of honor, we are bound to fulfil what we have engaged to perform; on the principles of justice, we are bound to pay what we owe; and, on principles of policy, we ought to discharge the interests of our present debt, in order that when public exigencies require it, we may borrow money with greater facility. We have no right, by our conduct, to put it out of the power of the United States hereafter to defend themselves, and unless we support the credit of America by a just performance of our engagements, we shall depreciate her credit to so low a state, as to prevent her from hereafter obtaining any future loans.

MR. FITZSIMONS.—I apprehend my colleague has taken for granted what has not appeared

FEBRUARY 10, 1790.]

Public Credit.

[H. OF R.]

in evidence, that there is a great part of the domestic debt unliquidated. I doubt the truth of such an opinion. We are not authorized to entertain it from any thing contained in the report of the Secretary of the Treasury. The unliquidated debt therein spoken of, amounts to but two millions of dollars, and that chiefly arises from the old Continental money, which is not yet brought into the Treasury, and this sum is so small, that I think there is little danger, that in making our provision now for the payment of the interest, we shall so far exhaust the resources of our country as to disable us from making provision for the remainder, when it is ascertained; indeed, the accounts which are not liquidated, appear to me to be very trifling; because the two millions of dollars mentioned in the report, are the greater part of them supposed to arise from seventy-eight millions of the old Continental dollars, yet outstanding; and these, at forty dollars for one, amount to pretty nearly that sum.

Mr. JACKSON.—If there is no part of the debt of the United States unliquidated, besides the two millions which the gentleman alludes to, yet there is a very considerable part of what is in contemplation to fund, as Continental debt, not at present ascertained. I mean the State debts. The Secretary himself had no evidence before him, from which he could make a probable guess of the amount; if these are to be assumed by the General Government, I presume the General Government ought to be at liberty duly to ascertain them; and, therefore, the amendment proposed by the honorable gentleman from Pennsylvania ought to be admitted.

The honorable gentlemen who are in opposition, contend, that no sort of discrimination ought to take place; yet from what they have let fall, on this occasion, I am led to believe that they favor that part of the report of the Secretary which makes a discrimination, in fact, equal to a loss of one-third of the principal. What will hold good in one case ought to hold good in another, and a discrimination might take place upon the same principles, between those to whom the Government was originally indebted, and who have never received satisfaction therefor, and those who had nothing to do with the Government in the first transaction; but have merely speculated, and purchased up the evidence of an original debt. Some gentlemen think, that the claims of this latter class merit a greater degree of attention, because, by their actions, they seem to have evinced a greater degree of confidence in the Government than those who sold them. But, sir, these men have had more information, they have been at the seat of Government, and knew what was in contemplation before citizens of other parts of the Union could be acquainted with it. There has been no kind of proportion of knowledge between the two classes—to use the expression of a British Minister, the reciprocity has been all on one side. The people in this city are informed of all the motions of Govern-

ment; they have sent out their money, in swift sailing vessels, to purchase up the property of uninformed citizens in the remote parts of the Union. Were those citizens acquainted with our present deliberations, and assured of the intention of Congress to provide for their just demands, they would be on an equal footing; they would not incline to throw away their property for considerations totally inadequate. Such attempts at fraud would justify the Government in interfering in the transactions between individuals, without a breach of the public faith; but this, sir, is not the object of the present motion, it only goes so far as to ascertain the amount of the debt, before we make provision for the payment; and this appears to me to be proper upon every principle of justice and discretion.

Mr. STONE thought, if we made no effort to pay the debt until it was wholly liquidated, it would be a work of time, and that it would be unjust to refuse to settle with those who had settled their accounts, because there were some of our creditors who had hitherto neglected to bring them in.

Mr. SEDGWICK feared the consequences, were the present Congress to disperse without providing adequate funds for the support of public credit; he believed every gentleman's mind was impressed with the same idea; that, therefore, a procrastination upon the principle of liquidation would be extremely injurious.

Mr. WHITE did not understand the full extent of the amendment, nor of the original proposition; he wished the committee to investigate the subject very fully before they came to a decision, because much depended on doing what is right.

Mr. BURKE wished the question postponed till to-morrow, as it was a subject of such high importance. He moved the committee to rise; whereupon, the committee rose, and reported progress.

WEDNESDAY, February 10.

The memorial of Robert Morris being read a second time, it was ordered to be entered on the Journal, and that the subject-matter of it be referred to a select committee, composed of Messrs. MADISON, SEDGWICK, and SHERMAN.

PUBLIC CREDIT.

The House again went into a Committee of the whole, Mr. BALDWIN in the chair, on the report of the Secretary of the Treasury.

Mr. SCOTT's amendment being still under consideration.

Mr. SCOTT.—Some time was spent yesterday in the consideration of this subject; in my opinion, that time was not ill spent, nor would two or three days more be ill spent in discussing the question, for it involves in it the whole doctrine of discrimination and liquidation. If these two great points are once settled, the way will be clear and open before us to proceed to the discussion of the report: for if the prin-

H. OF R.]

Public Credit.

[FEBRUARY 10, 1790.]

ciples of the report are good, I believe the plan itself is good. I believe, upon the principles which it holds forth, that it is wisely and judiciously drawn out, and does great honor to the officer who framed it. But it is incumbent on us to examine its principles before we adopt it; if they do not consist with equity and justice among the several inhabitants of the Union, they must be rejected. Now I doubt whether they consist with that equity and justice; I think there are others on this floor who have their doubts also. I wish, therefore, that we should coolly examine those principles, consult our judgment and understanding, and when we have collected all the information we can get from each other, we may determine; and when we have determined this, and the two grand points I have mentioned, our business will be easy.

In support of the principles held out in the report, it is said that a solemn contract is entered into that cannot be violated; that the debt is ascertained and cannot be extinguished, but by the absolute payment of what it acknowledged to be due. Now, I doubt whether the necessary concomitants of a contract to the amount mentioned on the face of the paper, really accompanies the public securities. Let us revert back to the time that this contract was entered into. At the close of the war, at the commencement of issuing final settlements, there was a demand against the United States for real and essential services rendered; the claimants came forward, and asked something for their demand. Congress, having no money to give them, offered something; what? A certificate to a certain nominal amount; nay more, of a certain known value; the nominal amount was twenty shillings, the certain known value was two and six-pence. Did the soldier accept of this offer? Yes. On what principle did he accept it? He knew it was putting the capstone on the building which he had erected by his labor and cemented with his blood. I have done you services, said he, to the amount of twenty shillings, but you are poor and unable to pay me; I will accept now of your two and six-pence, and give you a discharge. Thus, the soldier who had, through blood and slaughter, established the liberties of his country, crowned the whole by the sacrifice of pecuniary emoluments. His consent was given to the contract, and he received two and six-pence in the pound. Now, if there is any other contract existing like this, I cannot see it. The soldier never received it, nor the officer who handed it out, never believed it to be worth more than two and six-pence in the pound. It was like compounding a debt by the consent of the creditor, and there an equal liquidation ought to take place. If this reasoning is right, we know the value at once of our paper currency; if it is not right, I would wish to know upon what principle of rationality, a rate can be established for the value of our certificates.

Mr. Chairman, I do not lead, nor have I vanity enough to be the champion of a party, I

disdain all such ideas; what I now advance, I throw out merely for consideration. I am willing always to receive information. Let me be convinced of the existence of a contract, before I agree that provision ought to be made upon the principles of there being one. But suppose for a moment that such a contract exists, and it is inviolable, let us look at the first contractors, and see how it will operate in point of justice and equity. Those heroes who compounded their claims for the one-eighth, (for this was the value at which they received and passed the evidences of the debt,) who lost the other seven-eighths, and who are still willing it should be sunk, from whom we do not hear a word of clamor, they have added this to their other sacrifices; but there is a clamor, and from whence comes it? It comes from those who are now possessed of the Government paper; they are not content with passing it to the next hand for the same value at which they received it; they must have a profit eightfold, or they will not be satisfied. But how is this to be paid them? As certificates have no intrinsic value, the owners of them have no right to put their hands into the pockets of individuals, and extract money for them. The Government has the power; but the Government will not wrong one individual to do more than justice to another. Will they even wrong an individual to do strict justice to another? They ought not. But by the plan proposed, the soldier who received two shillings and six-pence for a security of the nominal value of twenty shillings, will be subject to the payment of five shillings towards the redemption of that evidence for which he got but half a crown.

From what I have said on this point, it will appear that I am of opinion, that a new scale of depreciation ought to be made, that would apply to certificates as former scales applied to paper money. Nor will their being deemed final settlements destroy the position; for it is a notorious fact, that for the first paper money that was issued, the public received the value of gold and silver. National policy and equity, when by mutual consent they had depreciated, properly induced Congress afterwards to say, that they should pass at a lower rate. Had not that policy been adopted, the community must have been inevitably ruined; the loss operated as a public tax, and injured no person, for it lost its value in the hands of every one, the same as if it had been contributed in payment for the support of Government.

Another reason urges me to adopt this principle rather than the one contained in the plan. When the amount of the public debt is ascertained, I could not pretend to cut the proprietor short of six per cent. interest. I think the same interest ought to be given which was offered, and which induced the holder to vest his money in this way. It would be doing more justice to him to abridge the principle, and to give him the full interest, than it would be to reverse the case.

FEBRUARY 10, 1790.]

Public Credit.

[H. OF R.]

That part of the amendment which is supposed to look like a delay in providing permanent funds for the discharge of the debt, is supported on a variety of considerations. I do not think we can go into funding the public debt until we know what it amounts to. One part we know is liquidated; but we do not know what the real value of that part is. It is called two millions of dollars; but there are seventy-eight millions of old Continental dollars still in circulation. A question will arise, if we determine that Government can make no alteration in the value of the paper she has issued, and plighted the public faith for the redemption of, whether the real value of these seventy-eight millions of dollars is, according to the nominal value, or as the Secretary supposes them to be, two millions only?

On this point, I could raise this inquiry, what was the idea of the Secretary of the Treasury when he used those words? Did he advert to the scale of depreciation which was fixed by the late Congress at forty for one? It is probable he did. It has been said that a public acknowledgment of money due on the balance of account is like a bond. Though I am not able to discover in what this likeness consists, yet if final settlements partake of the nature of bonds, I presume it will be admitted that paper bills are, to all intents and purposes, good notes of hand; no plea in justice or equity can be set up against the payment of one, that would not be admitted against the payment of the other. If at any time the public necessities have compelled the Government to declare them depreciated, I presume, when those necessities no longer exist, that they ought to return to their first value, and have the same force as if they had been unaffected by Legislative interference. What would be the consequence of funding the public debt under these impressions? The inconsiderable two millions would be found to amount to eighty millions. This consideration urges me to an ardent wish that we may be cool and deliberate in weighing the present question.

The doctrine held forth that the present possessor stands in the place of the original holder, is what I do not perfectly comprehend; I think there is a difference. There would be a difference before a National Court of Equity; that Court I now bring you before—and one distinction I ground on this simple consideration, that you cannot do what is termed justice to the present holder without doing an injury to the original holder; for out of his pocket must come more than he received for what the nation owed him. This certainly is not the part which a Legislature ought to act, who has an equal care of the whole, when we have it in our power to do strict justice to the one, without doing an injury to the other.

Shall I be told, that there are many of those characters, whom I have spoken so highly of, veteran soldiers and brave officers, who hold sentiments different from those I am now ad-

vocating? I believe there are men who were once brave soldiers, who are now become speculators. I do not think it a crime that a man should speculate in the funds; but when we hear his opinion and attend to his language, we are led to believe, that it is not the opinion or language of the soldier, but those of the speculator; consequently, they ought to have no weight on our minds, in determining a question in which they are interested.

Mr. HARTLEY.—I am opposed to the amendment, not only on account of the mode of expression used in it, but also on account of the very reasons urged by the gentleman in support of it. My colleague considers his principles right, and supposes those who differ from him in sentiment, to entertain different ones: I happen to be one of those who entertain a different sentiment from him; I am also one of those to whom he has alluded, having been in the late army, though I never speculated in public securities. As I differ so much in sentiment from him, and would not willingly give a silent vote on the occasion, I beg leave to state my reasons for it. At our last session we gave assurances to the public, that we would take up the subject of providing the means for the support of public credit, by providing the means of paying our public debts. It was well known then to every gentleman in this House, that many of the certificates were in the hands of those who had purchased them; yet, I believe the idea of making a discrimination never entered into the contemplation of any gentleman, at least nothing was said that indicated such an intention; nor was it suggested that before this could be done, a reliquidation ought to take place. If that principle be just, and must be carried into execution, it will take many years before we can complete our promise. I grant that we ought to be certain of the extent of our funds, before we undertake to burthen them with the amount suggested in the report of the Secretary. Every gentleman can form some opinion, by contemplating the materials; if we discover that our means are insufficient, let us make it known to the world, and endeavor at a composition upon true principles; but I have not heard it asserted that our means are insufficient. I believe, if we compare them with those of other countries, we shall find them very abundant. Those suggested in the report of the Secretary of the Treasury, are but an inconsiderable number of the branches of revenue to which our power extends. I would not touch the funds that present themselves to my mind, unless they were necessary; but I am pretty confident there will be enough left, after making provision for the part of the debt which is ascertained, so that we have little occasion to fear that our present efforts will prevent us from making future provision for that part of the debt which is now said to be unliquidated. This circumstance of our ability greatly enhances the obligation to do justice; the only object of the motion, I conceive, is delay;

which is a principle contrary to what has been established by this House, in their vote of last session, as well as their answer to the President during the present.

With respect to what was said of the public securities being originally issued, and received as worth but 2s. 6d. in the pound, I must totally differ with my colleague. The contracts for which they were given as an acknowledgement, were many of them performed three, four, or five years, previous to the time of their being received, and then they were not accepted by the soldiers, willingly, as an equivalent for their services; but Congress forced them to accept of them as the only alternative. Neither did Congress consider that paper as a discharge of the debt; they only gave it as an evidence of the amount. The soldiers parted with them, to be sure, for what they could get, and here, I believe, they were frequently hardly dealt with. I always reprobated the idea of purchasing the soldiers' rights for such trifling considerations as have been generally given; and I would at the time they were so imposed upon, have cheerfully given my consent that a discrimination should take place; but, now they have changed hands so often, it is impossible to do it without the greatest degree of injustice if the Government had the power: and this leads me to consider another principle, mentioned by my colleague, that we are arbiters in the case; so far from it, Mr. Chairman, I consider that we are parties, and that one party has no right to change a contract without the consent of the other. We may attempt to modify the interest and mode of payment; but before either of these measures can take effect, the consent of the other party must be obtained. In Great-Britain, the principle has been three times tried within a century. In the year 1784, the Chancellor of the Exchequer attempted to modify the unfunded navy and ordinance debt; but after bringing a bill into Parliament for that purpose, the opposition obliged him to relinquish the measure.

As to the policy of funding, I differ in opinion from the gentleman from Georgia, who has supposed it to be improper and dangerous to introduce such a scheme into a republic. Funding, like every human good, has its certain alloy of evil; abuses may be committed; underserving individuals may obtain a living by acts practised upon their fellow-men; but these things cannot be avoided in any human system. Funding has carried Great-Britain, apparently, to the highest degree of national prosperity; how has she extended her commerce and her manufactures, by means of her paper credit? To what a reputable rank has she raised her character in the scale of nations; compare her with herself when she pursued a different policy; when she collected her revenue upon the spur of the occasion. Look at Frederic the Second, King of Prussia; that Prince accumulated in his coffers specie to the amount of one hundred millions of crowns; but his people

were poor and wretched, unable to have assisted him in point of revenue, in case any accident had happened. A capital thus collected was depriving his subjects of the means of promoting productive industry, and leaving them to languish their lives away in military indolence. A nation that has it in her power punctually to pay the interest of the debts she contracts, may always be supplied, in cases of exigency, with what is sufficient for her purpose, without diminishing the stock of her industrious citizens.

Mr. Sengwick professed himself to be totally disinterested on the subject of discrimination. He was a representative of a part of the United States in which there were very few of these certificates to be found; he believed, therefore, that it would be their particular interest, that as little money should be drawn for the payment of the national debt as was consistent with justice. He felt no difficulty in declaring, that the Government possessed the power to interfere with contracts, public and private. Gentlemen will concur with this idea, if they consider, that the great object of society is self-preservation, and that, consequently, every measure that has a tendency to destroy the social compact is in the power of Government to abrogate and set aside. But it should be assumed as a principle, that this interference of the Government should never take place, but when such are the circumstances of the community, that the mind is convinced that without the measure the public welfare would be endangered. Here, then, arises the question; are we in such circumstances at present as to render an interference, without the consent of the creditors, consistent with the well-being of the society? If gentlemen will demonstrate this to me, I shall concur with them in the idea, that we ought to pursue that line of conduct which we have a precedent for under the old Congress; but if we are not in that situation, we have no right to meddle in the business. The great point, then, to be settled is, what is our capacity of fulfilling the existing engagements of the country to its creditors? On this question there may be a variety of opinions. I am prepared to acquiesce in the decision that shall be made after a due investigation of our resources. But, for myself, I do believe any further procrastination of the business will not only increase the difficulty of a final determination, but will be mischievous and destructive of the general welfare. Nay, I do not know but it will tend to the destruction of the Government itself, by destroying that energy on which all is to depend. I shall not recapitulate the circumstances which have led me to form this conclusion; but if gentlemen will consider the fervor of the public mind on this subject, the impressions that have been made, and what they are still likely to receive from this and other causes, they cannot wonder at my apprehension. The pernicious consequences of speculation, will, I fear, be increased by any

FEBRUARY 10, 1790.]

Public Credit.

[H. OF R.]

unnecessary delay; for although that business is of course connected with a transferable debt, and that debt derives its value from it in a great degree, and though the public credit is thereby promoted, yet, when persons are seduced from more useful occupations, to divert their stock, and commence speculating in the public funds, the protective industry of the country must be checked, and great injury be sustained by the Commonwealth.

I would just suggest another idea, with respect to the subject of discrimination: I suppose that it is not contemplated by any gentleman, to make provision for the payment of the public debt, upon the precise terms it was contracted. I have heard no gentleman say, that it would be proper, under all circumstances, to go into such a measure. I suppose the only difference amongst us is, whether we do it by a violent interference of the Government, or whether we shall modify it with the consent of the creditors? I am led to believe, that the latter mode will be the only proper one; and from the public creditors being a set of enlightened men, I am led to expect that they will accept of our reasonable proposals. They would not wish to receive from us engagements beyond what the Government is able to discharge, the value of their certificates will depend upon the public opinion, and the public opinion will depend upon our ability to discharge them; they will contemplate all these consequences, and their concurrence may be expected with certainty.

Mr. BODINOT.—I am convinced that the principles laid down by the gentleman from Pennsylvania, if true, ought to effect the final determination of this question; and if I was satisfied with them, I should clearly vote with him. If I was convinced that the certificates at the time they were given out, were worth no more than 2s. 6d. in the pound, and that the creditors received them at that price, in full discharge of their demands, I should be very loath to raise them to so great a value; I would treat them precisely the same as Continental money. I should think that the public did complete justice by complying with the terms of their contract; while this is a matter of dispute we can never agree in our determination. But if I can show that this is not the case, that he has not looked into the origin of this debt, so as to be well ascertained of the fact, I hope he will give up his opinion, and join with me in the conclusion.

The debt of the United States is of four kinds; first, paper-money; second, money lent; third, the pay to the army, including commutation, and the allowance for depreciation; and fourth, certificates, or evidences of the debts due from the United States to individuals, for supplies furnished, or services rendered at different periods of the last war. As to the bills of credit, I mentioned yesterday that they stand upon a different footing from the rest; because it was one of the parties who ascer-

tained their depreciation, contrary to the opinion of the other, who had a desire of keeping them up to their nominal value. The money loaned to the United States, is a debt which we are bound to pay, on every principle of honor and justice; nor can it be said that the certificate given to the person who loaned the money, was given as a payment in discharge of the debt. With respect to the army, including commutation, I shall beg leave to read two or three resolutions of Congress, to show that Congress had a different idea of the certificates they gave to the officers and soldiers, in evidence of the balance of their account, which is still due. When they were first issued to the soldiers, Congress guarded them from being transferable; but as the soldiers could get nothing for them in that form, upon representation, Congress passed another resolution, by which they were made transferable, in order that the soldier might avail himself of the acknowledgment of Congress in his favor; (the resolutions referred to were in May 1793, April 1784, and June 1784.) This recurrence to the resolutions of Congress, under which the evidences of the debt were issued, sufficiently explodes a supposition, that they were understood to be worth no more than 2s. 6d. in the pound, at the time they were issued and received. From the personal knowledge I have of the transactions of that time, I can venture to say, that no idea of payment was ever entertained. They were, in fact, and were so considered, evidences of the liquidated and specific sums due to the creditors of the United States. The step which Congress took for the benefit of the army, in making their certificates transferable, so far from accommodating them, would have proved a real injury. If the assignee had supposed himself to stand in a less eligible situation than the assignor, he never would have been induced to have given him the price which he did. If the soldier had received a certificate of twenty shillings, as only 2s. 6d. nobody would have inclined to have given him 2s. 6d. for it, because he could never expect to obtain a repayment of a greater sum, even in such money as Congress should find convenient; upon every principle of assignment of debts or contracts, such an idea ought to be reprobated.

With respect to the idea of reliquidation of the public debt, I venture to say that it is totally impracticable; but were it practicable, and to be entered into, the United States, instead of being gainers, would lose many millions by such a transaction. There have been many instances within my knowledge, where supplies have been furnished, and services rendered; for example, a wagon and horses at 40 shillings a day, have been settled for afterwards, when the money had depreciated 30 or 40 for 1, and paid in a certificate at the original rate; upon this principle, therefore, it would be highly impolitic to adopt the gentleman's motion.

H. OF R.]

Public Credit.

[FEBRUARY 10, 1798.]

With respect to the arguments applicable to the general principle of a funded debt, I shall say nothing more than that it is not the question properly before us. But if it was, we are under the necessity of doing something in the business, because it is not a question whether we shall contract a debt for the purpose of funding it; we have one already engaged, which we must provide for.

Mr. SCOTT said, if there was any use in it, he should have no objection that the journals of the late Congress should be read from the beginning to the end, and he apprehended that, in that case, they would find resolves equally solemn, and equally binding; which were afterwards set aside by the scale of depreciation. This would plainly prove that it was considered by the late Congress as just and politic to interfere and determine the value of the present paper.

The gentleman from Massachusetts, (Mr. SEDGWICK,) who has spoken since I was last up, has said something more serious, and which is well worthy of due consideration. He has told us that the most alarming consequences are to be apprehended from delaying this important business beyond the present session; that it will destroy the peace of the society, and endanger the Union itself. If that be the case, a skin for a skin, all that a man has he will give to save his life. If we are to be torn to pieces, or if the speculators will cut our throats, if we do not pay them twenty shillings for their half crown, I will consent to what you please; but, before I do this, I should like to know how this is to come about, and how we are to be distressed by the necessary delay of the business.

Mr. SEDGWICK.—I will express my idea on the point which the gentleman has made an inquiry respecting, in a few words. I said, that I conceived a delay of this business would endanger the peace of the Union by diminishing the energy of the Government, without which this constitution would be of no value. These are considerations which must appear weighty and important, if justly considered by the committee. A great and respectable body of our citizens are creditors of the United States. There are a variety of opinions prevailing respecting their claims, with respect to funding, discrimination, and interest. This diversity of opinion may probably irritate, and produce heats and animosities, which may terminate in forming factions among the people. The State debts may produce a difference between the General and particular Governments. If the matter is taken up as the business of a party, one may be pitted against the other, until, in the end, they disturb the public tranquillity, or sacrifice the general welfare to opposition and party spirit. Besides this, the reputation, the credit of the Government is at stake; the public expectation is alive to all the measures of Government at the present moment. They expect that justice and equity will be administered as far as the abilities of our country ex-

tend; it lies with the Legislature to realize this expectation. If Congress pursue the present inquiry, and come to a determination without delay, the public sentiment will be brought to a point, and a general acquiescence may be expected; but if it is postponed to a future session, such may be the effect of faction and disappointment during the recess, that the probability is, that no one party will comprise a sufficient number to comprehend the majority of the whole.

Mr. JACKSON.—Do not gentlemen think there is some danger on the other side? Will there not be ground of uneasiness when the soldier and meritorious citizen are called upon to pay the speculator more than ten times the amount they ever received from him for their securities? I believe, Mr. Chairman, there is more just reason of alarm on this than on the other side of the question.

A gentleman from Pennsylvania (Mr. HARTLEY) has noticed my arguments of yesterday, respecting a funding system. I beg leave to make a few observations in answer to him. He has said, that a funded debt is of great advantage to a nation, and has adduced the situation of England as a proof, founded on experience. But England is a solitary example, and the force of that example dwindles into nothing, if we examine into the real cause of her seeming affluence. She does not owe much of respectability to her national debt; she owes the most of it, at present, to the troubles of other countries, and when those have subsided, the bubble of her credit may blow up, as did the South Sea project, for Government stock can never be considered as cash. The stock employed in agriculture, commerce, and manufactures may, by great prospects of advantage, be diverted into the hands of brokers, for the purpose of speculating further in the funds; but no real addition will be made to the means of productive industry, nor was any thing of this kind contemplated at the time funding was first introduced into England. We learn from *Blackstone*, that the reason for establishing a national debt, was in order to support a system of foreign politics, and to establish the new succession at the revolution; because it was deemed expedient to create a new interest, called the moneyed interest, in favor of the Prince of Orange, in opposition to the landed interest, which was supposed to be generally in favor of the King, who had abdicated the throne. I hope there is no such reason existing here; our Government, I trust, is firmly established without the assistance of stock-jobbers. We ought to reign universally in the hearts of our fellow-citizens, on account of the salutary tendency of our measures to promote the general welfare, and not depend upon the support of a party, who have no other cause to esteem us but because we realize their golden dreams of unlooked-for success.

Another argument in favor of an American funding system, may be urged from the proba-

FEBRUARY 10, 1790.]

Public Credit.

[H. OF R.]

bility of drawing considerable sums from Europe into this country. If Europeans send us their money to purchase the principal, let us remember that they take that very money back as interest, and at a rate which abundantly indemnifies them for the loan. On the other hand, if the public securities are possessed by our own creditors, it will have the effect I mentioned before; it will take a capital from productive labor, and vest it in unproductive labor, if the term may be admitted; like an *ignis fatuus*, it will deceive us, and lead us and our posterity into a wilderness of politics, from which we shall never be able to extricate ourselves. The Secretary has told us, in his report, that exigencies in Government may require new loans; and that we ought, therefore, so to establish our credit as to be enabled to borrow when necessary. Perhaps, Mr. Chairman, it would be politic to order our affairs in such a manner as to obtain all our supplies by taxation, because the people, feeling the effect of expensive measures, would be a check in restraining the General Government from running into extravagance. The opinion of *Blackstone* is corroborated by another writer of great eminence, *Smith*. In his Inquiry into the nature and causes of the Wealth of Nations, he declares that the practice of funding has enfeebled every State which has adopted it; and he asks, "If it is likely that, in Great Britain alone, a practice which has brought weakness or desolation into every country should prove altogether innocent?" If such are the opinions of well-informed men, we ought to consider well what we are about before we take such a dangerous leap in the dark. I have a great regard for the honor and credit of the United States, and I would not precipitately adopt a measure which must, in the end, destroy both; for, when national debts have once been funded, and accumulated to a certain degree, there is scarcely, I believe, a single instance of their having been fairly and completely paid. The liberation of the public revenues, if it has ever been brought about at all, has always been brought about by a bankruptcy; sometimes by an avowed one, but always by a real one, though frequently by a pretended payment.

MR. STONE.—If we, by adopting the amendment proposed by the gentleman over the way, (Mr. SCOTT,) say, we will not provide for the payment of the public debts, until they are ascertained and duly liquidated, it amounts to a declaration that, at this session, we will not enter upon it. Now, whatever idea I have of a funding system, as to its advantages or disadvantages to the interest of the United States, I would not be willing to delay making a proper provision for paying what we have in our power to pay to the public creditors. I am willing, though, before this is done, to go into a full and candid examination of the principles of a permanent system, and to ascertain, whether our situation will be mended by it. For my part, sir, I expect very little advantage from schemes

of revenue; it is the strong bias of my mind, that all such schemes are unequal to our situation. We are not, like Britain, obliged to subsist upon public credit. Therefore, public credit is not the first object of our Government, it is but a secondary consideration. No paper schemes, that tend in other countries to gain a factitious credit to the Government, are necessary here. If the United States acquire credit, it will be gained when we evince, by our conduct, that we are undetermined scrupulously to comply with our engagements. This is not the work of a day, it will require the experience of years before it arrives at that degree of stability which some gentlemen have in contemplation. But what is the amount of all funding systems? They give a nation capacity to run in debt with the utmost facility; they neither increase the riches, agriculture, commerce, nor happiness of a country. But if it has not money of its own to carry on the mad schemes of ambition, it supplies it with the means of purchasing mercenary soldiers, of shedding the blood of their neighbors, and of cutting so many more throats than they would otherwise be able to do. Factitious, or public credit, founded on schemes of borrowing, appear to me monuments of the folly and vice of mankind.

It would be a desirable thing if we could pay off both the principle and interest of all the debt, according to the specific terms; and I hope an attempt will be made, as far as we have ability to do it, in order to avoid a perpetual incumbrance.

MR. SMITH, of South Carolina.—If we were about to contract debts for the purpose of funding them, the observations of the gentleman from Georgia would apply; but we have already contracted them, and the only question is, shall we fund or pay? We must do one or the other. With respect to the remark of *Blackstone*, he is writing of an enormous public debt when he mentions it as injurious, because he expressly says, that "a certain proportion of debt seems to be highly useful to a trading people; but what proportion that is it is not for me to determine." To be sure he adds afterwards, "that the present magnitude of our national incumbrances, very far exceeds all calculations of commercial benefit, and is productive of the greatest inconveniences." And here I agree with him: but our public debt is not of such enormous magnitude as to counterbalance the good effects of throwing out such a quantity of a stable paper as will answer all the purposes of a circulating medium.

MR. GERRY.—The amendment seems to be grounded on arguments tending to show a distinction between the foreign and domestic debt, which I believe does not exist in reality; and an observation has been made by the gentleman from Georgia that I should be sorry to find generally received. It is, that American independence was principally established by foreign loans. To ascertain this point, which I consider of some importance, it will be necessary to con-

H. OF R.]

Public Credit.

[FEBRUARY 10, 1790.]

trast the sums advanced by foreigners with the amount of the domestic debt. If gentlemen turn to the report of the Secretary of the Treasury, they will find that the foreign loans, with the interest due thereon, is estimated at \$11,710,378, the Federal liquidated domestic debt, without interest, amounts to \$27,363,917; the interest due thereon, with the unliquidated part, is \$15,030,168, in all, \$42,344,085. The domestic State debts are about \$25,000,000. So that the whole of the present domestic debt amounts to \$67,244,085, a sum nearly six times as much as the foreign debt. From this statement alone, it does not appear that our independence was established by foreign loans. But the disproportion will appear still greater, if we pursue the subject. By referring to the journals of Congress of 1776, a period when there was little or no depreciation of the bills of credit, it will appear that Congress emitted that year fourteen millions of dollars, and the sums expended by the States in the same year, if estimated at the proportion stated by the Secretary, between the Federal and State debts, will amount to about eight millions, making the expenditure of 1776, about twenty-two millions of dollars. Our annual expenses during the war were never computed at a less sum than about five millions sterling. Great Britain spent about one hundred millions sterling in the contest: this will average it about twelve and a half millions per annum; and when we take in her unfunded and contingent expenses, it will amount to fifteen millions; so that we cannot, on comparison, suppose we expended less. If, then, it be admitted, that the expenses of the Union were at least twenty-two millions of dollars, the whole expense of the war will be about a hundred and seventy-six millions, to which the foreign loans bear about the proportion of one to sixteen.

Perhaps it will be asked, how was the part of this sum paid which is not now due? I answer, it was sunk in various ways. First, by depreciation, which has operated as a tax, to all intents and purposes, on the citizens of the United States; and also by classing the citizens for the purpose of recruiting the army, by which they were often taxed three hundred dollars, as a bounty to every recruit; but, on an average, in Massachusetts, they paid at least two hundred and fifty dollars for those recruited in this way.

Now, it appears from the journals of Congress, that the foreign loans were obtained at such times, and in such sums, as bore no proportion to the domestic exertions. In 1778, the whole sum loaned by foreigners amounted to \$583,330; in 1779, to \$700,000; in 1780, to a million and a half; in 1781, to \$2,300,000. I believe, at that time, our independence was tolerably secure, yet no man can think it was established by the foreign loans. In my opinion, they had little to do with the business; for it must be remembered, that the expense of the United States, on the calculation I have made, amounted, at that time, to a hundred and seven-

ty-six millions of dollars. And, to the end of the war, in loans and subsidies together, we received from foreigners, little more than three millions of dollars. Surely, then, the citizens of America ought to have some credit for their exertions, and we are wrong in attempting to deprive them of the honor of establishing their independence; nor ought it to be supposed that we hold our liberties at the mercy of foreigners.

It has been said, that there ought to be a discrimination between the foreign and domestic debt, because the former lent their money in solid coin, and the latter in a depreciated currency. I know very well that part of this money was loaned in a depreciated state; but it has been reduced to specie value, on a scale fixed by Congress; I therefore presume there is no just reason for discrimination between them. The supplies were also furnished at a rate above specie value; but either they were paid for in Continental money, when the money had further depreciated, or they were paid for in loan-office certificates, issued some time after the purchase, which were likewise liquidated, and here it may be supposed the citizens had the worst of the bargain, because Government fixed the scale of depreciation without consulting the creditor. This, then, does not warrant a discrimination.

Another reason why we should make a discrimination is, that foreigners loaned their money at four per cent., and the citizens at six per cent. I deny that our foreign loans were procured at four per cent. The sums borrowed of the Royal French Treasury were at five per cent.; and here it will not be improper to observe, in opposition to what has been said, that that kingdom was deeply interested in the event of the war; she expected to succeed in reducing a rival nation; and it would appear to an impartial bystander, that, taking all circumstances together, the loans I now mention ought to have been a subsidy. It would have been no great sacrifice for her if she had given these three millions; nay, I am persuaded she would have subsidized us to the amount of thirty millions, rather than have been defeated in the great object of the war. But the fact is, Mr. Chairman, of the loans procured of individuals some were at four, and some at five per cent. But in order to ascertain the weight of this objection, we ought to consider the time and situation of the lenders. At one time, when the citizens of the United States lent their money, there was a great degree of danger that they would be conquered and made slaves. We were without resources or alliance, contending against one of the most potent nations of Europe. At another time, though we were in alliance with France, the exertions of Britain were such as to render the event doubtful: when the French loans were made the monarch thought little of the hazard, as he had embarked in the war. Money was procured in Holland when guaranteed in France, and America was joined in the war by France, Spain, and Holland. It therefore appears to

FEBRUARY 10, 1790.]

Public Credit.

[H. OF R.]

me, that four per cent. was a better interest at that time than six per cent. was at the other. Besides this, the creditors of the United States lent their money, and left it with the Government to fix its value. Surely, then, there is a difference between the foreign and domestic creditor, but it is in favor of the latter. Add to this, that the foreign creditor has been duly paid his interest, without loss: the same was stipulated to the domestic creditor, but has he received it? A few years it was paid in bills on France, some in depreciated paper, and, since that, in indents, depreciated from fifty to ninety per cent. Here, then, again the domestic creditor has had the worst of the bargain.

It has been said, we ought to postpone the present business, in order to have time to convert our Western Territory into cash, for the purpose of paying our debts. I would ask the gentleman whether, if he had contracted a debt with a person, and given his bond for three years, and promised to pay annually the interest thereon, and the person had patiently waited ten years for it, without calling on him, because he knew his affairs were deranged; but finding his circumstances improved, and that he is in a capacity to pay, at least the interest, he were to call upon him and say, "Sir, I should be glad to receive my bond, which has been so long due, or if it is inconvenient to pay the principal, I beg you to assign funds out of which I may, in future, receive my interest;" whether he would tell him, and it would be satisfactory, "Sir, I think such a provision will be contrary to my interest; I have some vacant lands in some part of the world, which are worth money; but until I can sell them, and get cash for them, I cannot think of making the provision you require." Would not the creditor reply, "Sir, I have nothing to do with your land, here is your contract, which should have been discharged long ago; before your lands are sold, I and my family may be in our graves, for we have nothing to subsist on but your note, and we shall be starved to death if we have to wait any longer." The same will hold good with respect to the liquidation of the accounts. "What," says the man, "have I to do with your other accounts? You and I have settled, and I have your acknowledgment for the balance; you may put me off for ever, by telling me you have not yet ascertained and duly liquidated all you owe. Indeed, if you mean to pay nothing until you have settled with all, it may be your interest that such a settlement should never take place."

My honorable friend from Georgia has evinced a strong desire to pay the debts of the Union, though he does not approve of funding them; but I conceive it to have been an implied contract, that the debt should be funded if it was not paid.

It appears to me, after all the delays and disadvantages the domestic creditor has sustained, we ought to make no discrimination between him and the foreigner. It is contrary to the fact, that a discrimination ought to be made;

certainly after he has been thus injured by the fault of the Government, to reduce his property still more would be unjust; and you may as well reduce his principal as the interest, for the effect is in either case the same. I conceive that such a measure never can be agreeable to the people of the United States, because it is inconsistent with justice and common honesty. Why a difference, then, should take place between the domestic and foreign creditors, I cannot see; perhaps it may be thought politic; but I should consider it as a preferable thing to have the esteem and support of the citizens of the Union, than to be obliged to apply to foreigners for every aid we may require. The Government must operate upon the people who live under it, not upon foreigners.

With respect to a discrimination among the domestic creditors, the question is not before the committee at this time, I shall therefore pass it by; but I will assure the committee, that I am not influenced by my interest on this question. I think, in my own mind, I can decide as if I was wholly disinterested, though I hold some few certificates in my own name, (and they are all that I hold,) they are to such a trifling amount, that I would cheerfully throw them up and return them to the public, if others would do the same, and destroy at once the subject of altercation.

I hope, whatever the decision of the committee may be, it will be decided on principles of honor and justice; that they will make no distinction or difference; they will not neglect to provide, in as ample a manner for the debt of justice due to their own citizens, as they do for the foreign debt; if they do, the world will suppose that the *ultima ratio regum*, and not the principles of honor and justice were the influencing cause.

Mr. JACKSON never meant to derogate from the merit of his country in any thing he said. He knew well the hardships those brave men who had nobly fought and bled to secure the liberties of America had undergone. He had participated in some of them, and no man knew better how to esteem and venerate the patriotic citizens who had risked their all on the contest: but truth was a language dear to his heart, and he could not retract what he uttered by its dictates. He said it was to foreign loans that America was in a great measure indebted for her independence. What was it purchased the arms and ammunition that enabled her to make successful opposition to the troops of Britain, and her mercenary legions? What but the foreign loans? Without those military supplies how could she have carried on the war? Could paper money buy cannon and muskets of Europeans? They could not. Then it was undoubtedly to foreign loans we owed the means of defence, if not of conquest.

Mr. TUCKER.—I very much applaud the gentleman who made the motion now before the committee, because he has boldly come forward to combat an opinion so generally received in

this place, that many thought it could not be controverted by any man possessed of common honesty; and because I am persuaded, that he has done it with an honorable intention of substituting real and substantial justice, in the place of that which he deems to be only the name and the shadow.

Those gentlemen who are the strongest advocates for no discrimination whatever between the creditors of the Union, seem to agree in a proposition that effects an important discrimination. They have assented to a resolution to provide adequate funds for the discharge of the foreign debt. This resolution I also agree to, because I considered such a measure to be extremely proper; but now they propose to adopt a resolution to vary the terms of the domestic debt. It will be incumbent on those gentlemen to show, that they do not, in this case, make an actual discrimination. If they cannot show this, they allow that some discrimination is proper; then it will rest upon them to show, how far this discrimination ought to go, and whether what they propose is just.

Although it is probable, I differ with the gentleman who moved the amendment, I am inclined to think a discrimination of some kind is equitable and necessary. I believe it may be fairly said, that there are three classes of domestic creditors. The first, those who hold the Continental bills of credit, which have been long out of circulation. Second, Those who hold certificates that were given for services or supplies, in their own names. And, third, those who hold certificates by purchase. I would wish to consider the obligation to each of these three classes, and whether, in equity, some kind of discrimination may not be made. On a strict and impartial examination, I am inclined to believe they will not appear to be the same. I will now turn to the examination of the first; namely, the holders of the Continental bills of credit. The Secretary of the Treasury has reported in favor of some degree of provision being made for them. But, sir, what is the situation of the people who hold these bills? If I recollect rightly, the face of the bills declares, that the bearer shall be entitled to receive so many Spanish milled dollars as is therein expressed. When these bills were issued, their real value was equal to their nominal value, no person refused, or wished to refuse, them as such; but, in a short time, too large a quantity were issued, and they began to depreciate. Congress then recommended to the several States to pass tender-laws for the support of their credit. This was done by all the States; and they continued, in some of them, to pass as specie, under those laws, when they were depreciated twenty, thirty, and forty for one. Those people, who received them in this state, suffered a very great loss by an act of the Government, and many were ruined by the measure. When these bills had thus depreciated, Congress passed a resolution, calling them in at forty for one. This ordinance of Congress im-

mediately reduced the claims of the first class of creditors by an arbitrary act of power. I do not pretend to say that the measure was unnecessary, but it was rigorous to deprive them of 39-40ths of their claims. Perhaps we cannot return to all the transactions of that time, because it would involve the Government in a thousand difficulties, and produce, perhaps, greater evils than it would remedy. But there remains a claim upon our justice to pay the holders one dollar, at least, for forty. By the act of Congress, which I alluded to before, these bills were thrown out of circulation, and have ever since lain in the hands of individuals. Now, it appears to me, that, in equity, we ought to make all the reparation in our power. Surely, then, we ought to allow interest on the principal from the time the bills were scaled, and forced out of circulation. These creditors, I take it, have a strong claim upon us; because the Government has materially injured them, and the least satisfaction we can give them, is to put this part of the debt on the best footing we can; if we cannot do complete justice, let us approximate towards it as far as it is in our power. The second class of our creditors have obligations that are strong. It has been said, and generally passed current as an incontrovertible opinion, that those who transferred their certificates have conferred to the purchaser every claim they had upon the public. I mean, sir, to deny this assertion. There is a claim which they could not transfer, that is, a claim in equity; they were entitled to the principal sum when they presented their accounts to the United States, and we ought, in justice, to have paid it at that time; but, perhaps, from our inability to do this, we were obliged to force on them a certificate of the balance, with a promise to pay them an annual interest thereon; but a promise to pay the interest does not exonerate us from paying the principal, as soon as we have it in our power. Now, this is a claim which the original creditor, who parted with the evidence of his debt, did not transfer to the person to whom he sold it. The United States are under no contract with the purchaser who bought a loaned debt, to pay him any thing more than what the paper specifies, that is, to pay him the interest from year to year, but not the principal, until we find it convenient.

If we are not able to pay the person with whom the Government contracted, the principal sum due to him, but are obliged to fund it for the purpose of securing the annual payment of the interest; the same reason that authorizes us to procrastinate the discharge of the whole amount, which the Government justly acknowledges ought to be paid, will warrant us to delay the payment of a part of the interest due to the purchaser, which is all he has a right to claim of the United States, for he bought only a certificate, or loaned debt, on which Government had stipulated to pay a certain annual interest.

In this case, I admit, we do not administer

FEBRUARY 11, 1790.]

Slave Trade.

[H. OF R.]

strict justice, but what we do we do in an impartial manner. By funding the first and second class, at six per cent. payable from the present time, we enable them, perhaps, to get thirteen shillings and four pence, or fifteen shillings in the pound, for their principal; or, if it should hereafter arise to the nominal value, it is not complete justice; because, the payment, at that time, may not be so advantageous as it would be at the present. I would wish, therefore, to secure the payment of the interest to the two first classes of creditors, by appropriating the funds particularly to that purpose.

Then, with respect to the third class, if the residue of the revenue is insufficient to pay them the interest on their whole principal, I would give them certificates for such part as we are able to provide for the payment of the interest upon, at six per cent., to be paid in the same manner with the others. And I would give them other certificates for the remainder, on a like interest of six per cent., the payment whereof should commence at a fixed period, say three, four, or five years, as it might be found that the increasing resources of our country would enable us to do; but I would undertake nothing now beyond our present ability.

I believe it will not be deemed unjust to make provision on these principles; I would, therefore, immediately set about providing funds for the purpose, and pay to the first and second class their full interest; but I believe, if we do this for them, we shall not be able, in our present situation, to provide interest for more than half the principal of the third.

The proposition, in its original form, as introduced by the member from Pennsylvania, (Mr. FITZSIMONS,) appears to me to be inconsistent with the subsequent ones, as well as inconsistent with the present situation of the United States. After adopting a resolution, declaring that permanent funds ought to be appropriated for the payment of the interest on the domestic debt, to go on and say that we will pay but the two-thirds of that interest, will never be a compliance with our engagements. It is inconsistent with our present situation, because it does not appear, from any estimates made of the resources of the United States, that we are able to pay the full interest of six per cent. on the whole debt, taking into consideration the Continental bills, with the interest already accrued thereon, which, according to my supposition, will amount to about two millions and a half of dollars. It appears from the Secretary's report, that he contemplates no provision for the payment of any thing more at present than four per cent., so the resolution is inconsistent with our situation, as well as with the following ones; therefore, it will be necessary, before the question is taken, to modify it, by adding the words, "as shall appear consistent with equity, and the present and improving resources of the nation;" I say consistent with equity, because there may be a discrimination on that principle, in point of time and the pre-

sent resources, because I think we cannot now make full payment of what I acknowledge to be due; but I add, our improving resources, because I think they will enable us to do complete justice in a short time.

The question was now taken on Mr. SCOTT'S motion, and that being lost.

Mr. BURKE moved the following amendment to the original resolution, "provided a discrimination be made between the original holders and their assignees, and that a scale of depreciation be prepared accordingly;" this being seconded, was laid on the table.

When, on motion, the committee rose, and reported progress.

THURSDAY, February 11.

SLAVE TRADE.

Mr. FITZSIMONS presented the following Address to the Senate and House of Representatives of the United States:

To the Senate and House of Representatives of the United States.

The Address of the people called Quakers, in their annual assembly convened.

Firmly believing that unfeigned righteousness in public as well as private stations, is the only sure ground of hope for the Divine blessing, whence alone rulers can derive true honor, establish sincere confidence in the hearts of the people, and feeling their minds animated with the ennobling principle of universal good-will to men, find a conscious dignity and felicity in the harmony and success attending the exercise of a solid uniform virtue, short of which the warmest pretensions to public spirit, zeal for our country, and the rights of men, are fallacious and illusive.

Under this persuasion, as professors of faith in that ever blessed all-perfect Lawgiver, whose injunctions remain of undiminished obligation on all who profess to believe in him, "whatsoever ye would that men should do unto you, do you even so unto them;" we apprehend ourselves religiously bound to request your serious christian attention, to the deeply interesting subject whereon our religious society, in their annual assembly, on the tenth month, 1783, addressed the then Congress, who, though the christian rectitude of the concern was by the Delegates generally acknowledged, yet not being vested with the powers of Legislation, they declined promoting any public remedy against the gross national iniquity of trafficking in the persons of fellow-men; but divers of the Legislative bodies of the different States, on this Continent, have since manifested their sense of the public detestation due to the licentious wickedness of the African trade for slaves, and the inhuman tyranny and blood guiltiness inseparable from it: the debasing influence whereof most certainly tends to lay waste the virtue, and, of course, the happiness of the people.

Many are the enormities abhorrent to common humanity, and common honesty; which, under the Federal countenance given to this abominable commerce, are practised in some of the United States, which we judge it not needful to particularise to a body of men, chosen as eminently distinguished for wisdom as extensive information. But we find it

H. OF R.]

Slave Trade.

[FEBRUARY 11, 1790.]

indispensably incumbent on us, as a religious body, assuredly believing that both the true temporal interest of nations, and eternal well-being of individuals, depend on doing justly, loving mercy, and walking humbly before God, the creator, preserver, and benefactor of men, thus to attempt to excite your attention to the affecting subject; earnestly desiring that the infinite Father of Spirits may so enrich your minds with his love and truth, and so influence your understandings, by that pure wisdom which is full of mercy and good fruits, as that a sincere and impartial inquiry may take place, whether it be not an essential part of the duty of your exalted station, to exert upright endeavors, to the full extent of your power, to remove every obstruction to public righteousness, which the influence of artifice of particular persons, governed by the narrow mistaken views of self-interest, has occasioned, and whether, notwithstanding such seeming impediments, it be not in reality within your power to exercise justice and mercy, which, if adhered to, we cannot doubt, must produce the abolition of the slave trade.

We consider this subject so essentially and extensively important, as to warrant a hope, that the liberty we now take will be understood, as it really is, a compliance with a sense of religious duty; and that your christian endeavors to remove reproach from the land may be efficacious to sweeten the labor, and lessen the difficulties incident to the discharge of your important trust.

Signed in and on behalf of the Yearly Meeting, for Pennsylvania, New Jersey, Delaware, and the Western parts of Maryland and Virginia; held by adjournments from the twenty-eighth day of the ninth month, to the third day of the tenth month, inclusive, 1789, by NICHOLAS WALN, Clerk to the meeting this year.

MR. LAWRENCE also presented an Address from the Society of Friends, in the city of New York; in which they set forth their desire of co-operating with their Southern brethren in their protest against the slave trade.

MR. HARTLEY moved to refer the Address of the annual assembly of Friends, held at Philadelphia, to a committee; he thought it a mark of respect due to so numerous and respectable a part of the community.

MR. WHITE seconded the motion.

MR. SMITH, (of S. C.)—However respectable the petitioners may be, I hope gentlemen will consider that others equally respectable are opposed to the object which is aimed at, and are entitled to an opportunity of being heard before the question is determined. I flatter myself gentlemen will not press the point of commitment to-day, it being contrary to our usual mode of procedure.

MR. FITZSIMONS.—If we were now to determine the final question, the observation of the gentleman from South Carolina would apply; but, sir, the present question does not touch upon the merits of the case; it is merely to refer the memorial to a committee, to consider what is proper to be done; gentlemen, therefore, who do not mean to oppose the commitment to-morrow may as well agree to it to-day, because it will tend to save the time of the House.

MR. JACKSON wished to know why the second

reading was to be contended for to-day, when it was diverting the attention of the members from the great object that was before the Committee of the whole? Is it because the feelings of the Friends will be hurt to have their affair conducted in the usual course of business? Gentlemen, who advocate the second reading to-day, should respect the feelings of the members who represent that part of the Union which is principally affected by the measure. I believe, sir, that the latter class consists of as useful and as good citizens as the petitioners, men equally friends to the revolution, and equally susceptible of the refined sensations of humanity and benevolence. Why, then, should such particular attention be paid to them, for bringing forward a business of questionable policy? If Congress are disposed to interfere in the importation of slaves, they can take the subject up without advisers, because the Constitution expressly mentions all the power they can exercise on the subject.

MR. SHERMAN suggested the idea of referring it to a committee, to consist of a member from each State, because several States had already made some regulations on this subject. The sooner the subject was taken up he thought it would be the better.

MR. PARKER.—I hope, Mr. Speaker, the petition of these respectable people will be attended to with all the readiness the importance of its object demands; and I cannot help expressing the pleasure I feel in finding so considerable a part of the community attending to matters of such momentous concern to the future prosperity and happiness of the people of America. I think it my duty, as a citizen of the Union, to espouse their cause; and it is incumbent upon every member of this House to sift the subject well, and ascertain what can be done to restrain a practice so nefarious. The Constitution has authorized us to levy a tax upon the importation of such persons as the States shall authorize to be admitted. I would willingly go to that extent; and if any thing further can be devised to discountenance the trade, consistent with the terms of the Constitution. I shall cheerfully give it my assent and support.

MR. MADISON.—The gentleman from Pennsylvania (Mr. FITZSIMONS) has put this question on its proper ground; if gentlemen do not mean to oppose the commitment to-morrow, they may as well acquiesce in it to-day; and, I apprehend, gentlemen need not be alarmed at any measure it is likely Congress will take; because they will recollect, that the Constitution secures to the individual States the right of admitting, if they think proper, the importation of slaves into their own territory, for eighteen years yet unexpired; subject, however, to a tax, if Congress are disposed to impose it, of not more than ten dollars on each person. The petition, if I mistake not, speaks of artifices used by self-interested persons to carry on this trade; and the petition from New York states

FEBRUARY 11, 1790.]

Slave Trade.

[H. OF R.]

a case that may require the consideration of Congress. If any thing is within the Federal authority to restrain such violation of the rights of nations and of mankind, as is supposed to be practised in some parts of the United States, it will certainly tend to the interest and honor of the community to attempt a remedy, and is a proper subject for our discussion. It may be, that foreigners take the advantage of the liberty afforded them by the American trade, to employ our shipping in the slave trade between Africa and the West Indies, when they are restrained from employing their own by restrictive laws of their nation. If this is the case, is there any person of humanity that would not wish to prevent them? Another consideration, why we should commit the petition is, that we may give no ground of alarm by a serious opposition, as if we were about to take measures that were unconstitutional.

Mr. STONE feared that if Congress took any measures indicative of an intention to interfere with the kind of property alluded to, it would sink it in value very considerably, and might be injurious to a great number of the citizens, particularly in the Southern States. He thought the subject was of general concern, and that the petitioners had no more right to interfere with it than any other members of the community. It was an unfortunate circumstance, that it was the disposition of religious sects to imagine they understood the rights of human nature better than all the world besides; and that they would, in consequence, be meddling with concerns in which they had nothing to do. As the petition relates to a subject of a general nature, it ought to lie on the table as information. He would never consent to refer petitions, unless the petitioners were exclusively interested. Suppose there was a petition to come before us from a society, praying us to be honest in our transactions, or that we should administer the Constitution according to its intent, what would you do with a petition of this kind? Certainly it would remain on your table. He would, however, not have it supposed that the people had not a right to advise and give their opinion upon public measures; but he would not be influenced by that advice or opinion to take up a subject sooner than the convenience of other business would admit. Unless he changed his sentiments, he would oppose the commitment.

Mr. BURKE thought gentlemen were paying attention to what did not deserve it. The men in the gallery had come here to meddle in a business with which they have nothing to do; they were volunteering in the cause of others, who neither expected nor desired it. He had a respect for the body of Quakers, but, nevertheless, he did not believe they had more virtue or religion than other people, nor perhaps so much, if they were examined to the bottom, notwithstanding their outward pretences. If their petition is to be noticed, Congress ought to wait till counter applications were made, and then they might have the subject more fairly before

them. The rights of the Southern States ought not to be threatened, and their property endangered, to please people who would be unaffected by the consequences.

Mr. HARTLEY thought the memorialists did not deserve to be aspersed for their conduct, if influenced by motives of benignity. They solicited the Legislature of the Union to prevent, as far as is in their power, the increase of a licentious traffic; nor do they merit censure, because their behavior has the appearance of more morality than other people. Congress ought not to refuse to hear the applications of their fellow-citizens, while those applications contain nothing unconstitutional or offensive. What is the object of the address before us? It is intended to bring before this House, a subject of great importance to the cause of humanity; there are certain facts to be inquired into, and the memorialists are ready to give all the information in their power; they are waiting, at a great distance from their homes, and wish to return; if, then, it will be proper to commit the petition to-morrow, it will be equally proper to day, for it is conformable to our practice; besides, it will tend to their convenience.

Mr. LAWRENCE.—The gentleman from South Carolina says, the petitioners are of a society not known in the laws or constitution. Sir, in all our acts, as well as in the constitution, we have noticed this society; or, why is it that we admit them to affirm in cases where others are called upon to swear? If we pay this attention to them, in one instance, what good reason is there for contemning them in another? I think the gentleman from Maryland (Mr. STONE) carries his apprehensions too far, when he fears that negro property will fall in value, by the suppression of the slave trade; not that I suppose it immediately in the power of Congress to abolish a traffic which is a disgrace to human nature; but it appears to me, that, if the importation was crushed, the value of a slave would be increased instead of diminished; however, considerations of this kind have nothing to do with the present question. Gentlemen may acquiesce in the commitment of the memorial, without pledging themselves to support its object.

Mr. JACKSON.—I differ much in opinion with the gentleman last up. I apprehend, if through the interference of the General Government the slave trade was abolished, it would evince to the people a disposition towards a total emancipation, and they would hold their property in jeopardy. Any extraordinary attention of Congress to this petition may have, in some degree, a similar effect. I would beg to ask those, then, who are desirous of freeing the negroes, if they have funds sufficient to pay for them? If they have, they may come forward on that business with some propriety; but, if they have not, they should keep themselves quiet, and not interfere with a business in which they are not interested. They may as well come forward and solicit Congress to interdict the West

H. OF R.]

Slave Trade.

[FEBRUARY 11, 1790.]

India trade, because it is injurious to the morals of mankind; from thence we import rum, which has a debasing influence upon the consumer. But, sir, is the whole morality of the United States confined to the Quakers? Are they the only people whose feelings are to be consulted on this occasion? Is it to them we owe our present happiness? Was it they who formed the Constitution? Did they, by their arms or contributions, establish our independence? I believe they were generally opposed to that measure: why, then, on their application should we injure men who, at the risk of their lives and fortunes, secured to the community their liberty and property? If Congress pay any uncommon degree of attention to their petition, it will furnish just ground of alarm to the Southern States. But why do these men set themselves up in such a particular manner against slavery? Do they understand the rights of mankind, and the disposition of Providence, better than others? If they were to consult that book, which claims our regard, they will find that slavery is not only allowed but commended. Their Saviour, who possessed more benevolence and commiseration than they pretend to, has allowed of it: and if they fully examine the subject, they will find that slavery has been no novel doctrine since the days of Cain; but be these things as they may, I hope the House will order the petition to lie on the table, in order to prevent an alarm to our Southern brethren.

MR. SEDGWICK.—If it was a serious question whether the memorial should be committed or not, I would not urge it at this time; but that cannot be a question for a moment, if we consider our relative situation with the people. A number of men, who are certainly very respectable, and of whom, as a society, it may be said with truth, that they conform their moral conduct to their religious tenets, as much as any people in the whole community, come forward and tell you, that you may effect two objects by the exercise of a constitutional authority, which will give great satisfaction. On the one hand, you may acquire revenue, and on the other, restrain a practice productive of great evil. Now, setting aside the religious motives which influence their application, have they not a right as citizens to give their opinion of public measures? For my part, I do not apprehend that any State, or any considerable number of individuals in any State, will be seriously alarmed at the commitment of the petition, from a fear that Congress intend to exercise an unconstitutional authority, in order to violate their rights. I believe there is not a wish of the kind entertained by any member of this body; how can gentlemen hesitate, then, to pay that respect to a memorial which it is entitled to, according to the ordinary mode of procedure in business? Why shall we defer doing that till to-morrow, which we can do to-day; for the result, I apprehend, will be the same in either case.

MR. SMITH, (of South Carolina.) The question, I apprehend, is whether we will take the petition up for a second reading, and not whether it shall be committed? Now, I oppose this, because it is contrary to our usual practice, and does not allow gentlemen time to consider of the merits of the prayer. Perhaps some gentlemen may think it improper to commit it to so large a committee as has been mentioned; a variety of causes may be supposed to show that such a hasty decision is improper; perhaps the prayer of it is improper. If I understand it right on its first reading, though to be sure I did not comprehend perfectly all that the petition contained, it prays that we should take measures for the abolition of the slave trade. This is desiring an unconstitutional act, because the Constitution secures that trade to the States, independent of Congressional restrictions, for a term of twenty-one years. If, therefore, it prays for a violation of constitutional rights, it ought to be rejected as an attempt upon the virtue and patriotism of the House.

MR. BOUNDNOT.—It has been said, that the Quakers have no right to interfere in this business. I am surprised to hear this doctrine advanced, after it has been so lately contended and settled, that the people have a right to assemble and petition for redress of grievances. It is not because the petition comes from the society of Quakers that I am in favor of the commitment, but because it comes from citizens of the United States who are equally concerned in the welfare and happiness of their country with others. There certainly is no foundation for the apprehensions which seem to prevail in gentlemen's minds. If the petitioners were so uninformed as to suppose that Congress could be guilty of a violation of the Constitution, yet I trust we know our duty better than to be led astray by an application from any man or set of men whatever. I do not consider the merits of the main question to be before us; it will be time enough to give our opinions upon that when the committee have reported. If it is in our power, by recommendation, or any other way, to put a stop to the slave trade in America, I do not doubt of its policy; but how far the Constitution will authorize us to attempt to depress it, will be a question well worthy of our consideration.

MR. SHERMAN observed, that the petitioners from New York stated, that they had applied to the Legislature of that State to prohibit certain practices which they conceived to be improper, and which tended to injure the well-being of the community; that the Legislature had considered the application, but had applied no remedy, because they supposed that power was exclusively vested in the General Government under the Constitution of the United States; it would, therefore, be proper to commit that petition, in order to ascertain what are the powers of the General Government in the case.

FEBRUARY 11, 1790.]

Slave Trade.

[H. OF R.]

Mr. GERRY thought gentlemen were out of order in entering upon the merits of the main question at this time, when they were considering the expediency of committing the petition. He should, therefore, not follow them further in that track than barely to observe, that it was the right of the citizens to apply for redress, in every case in which they conceived themselves aggrieved; and it was the duty of Congress to afford redress as far as in their power. That their Southern brethren had been betrayed into the slave trade by the first settlers, was to be lamented; they were not to be reflected on for not viewing this subject in a different light, the prejudice of education is eradicated with difficulty; but he thought nothing would excuse the General Government for not exerting itself to prevent, as far as they constitutionally could, the evils resulting from such enormities as were alluded to by the petitioners; and the same considerations induced him highly to commend the part the Society of Friends had taken; it was the cause of humanity they had interested themselves in, and he wished, with them, to see measures pursued by every nation, to wipe off the indelible stain which the slave trade had brought upon all who were concerned in it.

Mr. MADISON thought the question before the committee was no otherwise important than as gentlemen made it so by their serious opposition. Had they permitted the commitment of the memorial; as a matter of course, no notice would have been taken of it out of doors; it could never have been blown up into a decision of the question respecting the discouragement of the African slave trade, nor alarm the owners with an apprehension that the General Government were about to abolish slavery in all the States; such things are not contemplated by any gentleman; but they excite alarm by their extended objections to committing the memorials. Gentlemen may vote for the commitment of the petition without any intention of supporting the prayer of it.

Mr. WHITE would not have seconded the motion, if he had thought it would have brought on a lengthy debate. He conceived that a business of this kind ought to be decided without much discussion; it had constantly been the practice of the House, and he did not suppose there was any reason for a deviation.

Mr. PAGE said; if the memorial had been presented by any individual, instead of the respectable body from whom it emanated, he should have voted in favor of a commitment, because it was the duty of the Legislature to attend to subjects brought before them by their constituents; if, upon inquiry, it was discovered to be improper to comply with the prayer of the petitioners, he would say so, and they would be satisfied.

Mr. STONE thought the business ought to be left to take its usual course; by the rules of the House, it was expressly declared that petitions, memorials, and other papers, addressed to the

House should not be debated or decided on the day they were first read.

Mr. BALDWIN felt at a loss to account why precipitation was used on this occasion, contrary to the customary usage of the House. He had not heard a single reason advanced in favor of it. To be sure it was said the petitioners are a respectable body of men; he did not deny it; but certainly gentlemen did not suppose they were paying respect to them or to the House, when they urged such a hasty procedure. It was contrary to his idea of respect, and the idea the House had always expressed, when they had important subjects under consideration; and, therefore, he should be against the motion. He was afraid that there was really a little volunteering in this business, as it had been termed by the gentleman from Georgia.

Mr. HUNTINGTON considered the petitioners as much disinterested as any persons in the United States; he was persuaded they had an aversion to slavery, yet they were not singular in this; others had the same; and he hoped, when Congress took up the subject, they would go as far as possible to prohibit the evil complained of. But he thought that would be better done by considering it in the light of revenue; when the Committee of the whole on questions of finance might properly take the subject into consideration, without giving any ground for alarm.

Mr. TUCKER.—I have no doubt on my mind respecting what ought to be done on this occasion; so far from committing the memorial, we ought to dismiss it without further notice. What is the purport of the memorial? It is plainly this, to reprobate a particular kind of commerce, in a moral point of view, and to request the interposition of Congress to effect its abrogation. But Congress has no authority, under the Constitution, to do more than lay a duty of ten dollars upon each person imported; and this is a political consideration, not arising from either religion or morality, and is the only principle upon which we can proceed to take it up. But what effect do these men suppose will arise from their exertions? Will a duty of ten dollars diminish the importation? Will the treatment be better than usual? I apprehend not; nay, it may be worse, because an interference with the subject may excite a great degree of restlessness in the minds of those it is intended to serve, and that may be a cause for the masters to use more rigor towards them than they would otherwise exert: so that these men seem to overshoot their object. But if they will endeavor to procure the abolition of the slave trade, let them prefer their petitions to the State Legislatures, who alone have the power of forbidding the importation. I believe their applications there would be improper; but if they are any where proper, it is there. I look upon the address then to be ill-judged, however good the intention of the framers.

Mr. SMITH claimed it as a right that the petition should lie over till to-morrow.

H. OF R.]

Public Credit.

[FEBRUARY 11, 1790.]

Mr. Boudinot said, it was not unusual to commit petitions on the day they were presented, and the rules of the House admitted the practice, by the qualification which followed the positive order, that petitions should not be decided on the day they were first read, "unless the House should direct otherwise."

Mr. Smith declared his intention of calling the yeas and nays, if gentlemen persisted in pressing the question.

Mr. Clymer hoped the motion would be withdrawn for the present, and the business taken up in course to-morrow; because, though he respected the memorialists, he also respected order, and the situation of the members.

Mr. Fitzsimons did not recollect whether he moved or seconded the motion; but he should not withdraw it on account of the threat of calling the yeas and nays.

Mr. Baldwin hoped the business would be conducted with temper and moderation, and that gentlemen would concede and pass the subject over for a day at least.

Mr. Smith had no idea of holding out a threat to any gentleman: if the declaration of an intention to call the yeas and nays was viewed by gentlemen in that light, he would withdraw that call.

Mr. White hereupon withdrew his motion, and the address was ordered to lie on the table.

A message from the Senate informed the House, that the Senate had passed a resolution empowering the President of the United States to appoint three commissioners to inquire into the receipts and expenditures of public moneys, during the administration of the late Superintendent of Finance; and to examine and adjust the accounts of the United States with that Department, during his administration, and to report the state thereof to Congress, and to request the concurrence of the House thereto.

PUBLIC CREDIT.

The House then again resolved itself into a Committee of the whole upon the report of the Secretary of the Treasury, Mr. Baldwin in the chair.

Mr. Burke's amendment being under consideration,

Mr. Burke said, he had brought his motion forward, in consequence of a hasty promise he had given a member of this House; but as he did not mean to support it, or vote for it, he would withdraw it.

Mr. Madison.—No gentleman, Mr. Chairman, has expressed more strongly than I feel, the importance and difficulty of the subject before us. Although I have endeavored to view it under all its aspects, and analyze it in all its principles, yet have I kept my mind open, and been anxious to aid my own reflections by the reflected light to be expected from gentlemen on this floor who enter into the discussion. For this purpose, I have chosen hitherto rather to be a hearer than a speaker on the subject, and should even at this moment have continued

in my seat, but that the turn which the business has taken, renders it requisite for me now, if at all, to trouble the Committee with my reflections, and the opinion in which they have terminated.

It has been said, by some gentlemen, that the debt itself does not exist in the extent and form which is generally supposed. I confess, sir, I differ altogether from the gentleman who takes that ground. Let us consider, first, by whom the debt was contracted, and then let us consider to whom it is due. The debt was contracted by the United States, who, with respect to that particular transaction, were in anational capacity. The Government was nothing more than the agent or organ, by which the whole body of the people acted. The change in the Government which has taken place has enlarged its national capacity, but it has not varied the national obligation, with respect to the engagements entered into by that transaction. For, in like manner, the present Government is nothing more than the organ, or agent, of the public. The obligation which they are under, is precisely the same with that under which the debt was contracted; although the Government has been changed, the nation remains the same. There is no change in our political duty, nor in the moral or political obligation. The language I now use, sir, is the language of the Constitution itself; it declares that all debts shall have the same validity against the United States, under the new, as under the old form of Government. The obligation remains the same, though I hope experience will prove that the ability has been favorably varied.

The next question is, to what amount the public are at present indebted? I conceive the question may be answered in a few words. The United States owe the value they received, which they acknowledge, and which they have promised to pay: what is that value? It is a certain sum in principal, bearing an interest of six per cent. No logic, no magic, in my opinion, can diminish the force of the obligation.

The only point on which we can deliberate is, to whom the payment is really due; for this purpose, it will be proper to take notice of the several descriptions of people who are creditors of the Union, and lay down some principles respecting them, which may lead us to a just and equitable decision. As there is a small part of the debt yet unliquidated, it may be well to pass it by and come to the great mass of the liquidated debt. It may here be proper to notice four classes into which it may be divided:

First, Original creditors, who have never alienated their securities.

Second, Original creditors who have alienated.

Third, Present holders of alienated securities.

Fourth, Intermediate holders, through whose hands securities have circulated.

The only principles that can govern the decision on their respective pretensions, I take to be, 1. Public Justice; 2. Public Faith; 3. Public Credit; 4. Public Opinion.

FEBRUARY 11, 1790.]

Public Credit.

[H. OF R.]

With respect to the first class, there can be no difficulty. Justice is in their favor, for they have advanced the value which they claim; public faith is in their favor, for the written promise is in their hands; respect for public credit is in their favor, for if claims so sacred are violated, all confidence must be at an end; public opinion is in their favor, for every honest citizen cannot but be their advocate.

With respect to the last class, the intermediate holders, their pretensions, if they have any, will lead us into a labyrinth, for which it is impossible to find a clew. This will be the less complained of, because this class were perfectly free, both in becoming and ceasing to be creditors; and because, in general, they must have gained by their speculations.

The only rival pretensions, then are those of the original creditors, who have assigned, and of the present holders of the assignments.

The former may appeal to justice, because the value of the money, the service, or the property advanced by them, has never been really paid to them.

They may appeal to good faith, because the value stipulated and expected, is not satisfied by the steps taken by the Government. The certificates put into the hands of the creditors, on closing their settlements with the public, were of less real value than was acknowledged to be due; they may be considered as having been forced, in fact, on the receivers. They cannot, therefore, be fairly adjudged an extinguishment of the debt. They may appeal to the motives for establishing public credit, for which justice and faith form the natural foundation. They may appeal to the precedent furnished by the compensation allowed to the army during the late war, for the depreciation of bills, which nominally discharged the debts. They may appeal to humanity, for the sufferings of the military part of the creditors can never be forgotten, while sympathy is an American virtue. To say nothing of the singular hardship, in so many mouths, of requiring those who have lost four-fifths or seven-eighths of their due, to contribute the remainder in favor of those who have gained in the contrary proportion.

On the other hand, the holders by assignment, have claims, which I by no means wish to depreciate. They will say, that whatever pretensions others may have against the public, these cannot effect the validity of theirs. That if they gain by the risk taken upon themselves, it is but the just reward of that risk. That as they hold the public promise, they have an undeniable demand on the public faith. That the best foundation of public credit is that adherence to literal engagements on which it has been erected by the most flourishing nations. That if the new Government should swerve from so essential a principle, it will be regarded by all the world as inheriting the infirmities of the old. Such being the interfering claims on the public, one of three things must be done;

either pay both, reject wholly one or the other, or make a *composition* between them on some principle of equity. To pay both is perhaps beyond the public ability; and as it would far exceed the value received by the public, it will not be expected by the world, nor even by the creditors themselves. To reject wholly the claims of either is equally inadmissible; such a sacrifice of those who possess the written engagements would be fatal to the proposed establishment of public credit; it would moreover punish those who had put their trust in the public promises and resources. To make the other class the sole victims is an idea at which human nature recoils.

A composition, then, is the only expedient that remains; let it be a liberal one in favor of the present holders, let them have the highest price which has prevailed in the market; and let the residue belong to the original sufferers. This will not do perfect justice; but it will do more real justice, and perform more of the public faith, than any other expedient proposed. The present holders, where they have purchased at the lowest price of the securities, will have a profit that cannot reasonably be complained of; where they have purchased at a higher price, the profit will be considerable; and even the few who have purchased at the highest price cannot well be losers, with a well funded interest of six per cent. The original sufferers will not be fully indemnified; but they will receive, from their country, a tribute due to their merits, which, if it does not entirely heal their wounds, will assuage the pain of them. I am aware, that many plausible objections will lie against what I have suggested, some of which I foresee and will take some notice of. It will be said, that the plan is impracticable; should this be demonstrated, I am ready to renounce it; but it does not appear to me in that light. I acknowledge that such a scale as has often been a subject of conversation, is impracticable.

The discrimination proposed by me, requires nothing more than a knowledge of the present holders, which will be shown by the certificates; and of the original holders, which the office documents will shew. It may be objected, that if the Government is to go beyond the literal, into the equitable claims against the United States, it ought to go back to every case where injustice has been done. To this the answer is obvious: the case in question is not only different from others in point of magnitude and of practicability, but forces itself on the attention of the Committee, as necessarily involved in the business before them. It may be objected, that public credit will suffer, especially abroad; I think this danger will be effectually obviated by the honesty and disinterestedness of the Government displayed in the measure, by a continuance of the punctual discharge of foreign interest, by the full provision to be made for the whole foreign debt, and the equal punctuality I hope to see in the future payments on the domestic debts. I

H. of R.]

Public Credit.

[FEBRUARY 11, 1790.]

trust also, that all future loans will be founded on a previous establishment of adequate funds; and that a situation, like the present, will be thereby rendered impossible.

I cannot but regard the present case as so extraordinary, in many respects, that the ordinary maxims are not strictly applicable to it. The fluctuations of stock in Europe, so often referred to, have no comparison with those in the United States. The former never exceeded 50, 60, or 70 per cent: can it be said, that because a Government thought this evil insufficient to justify an interference, it would view in the same light a fluctuation amounting to seven or eight hundred per cent.

I am of opinion, that were Great Britain, Holland, or any other country, to fund its debts precisely in the same situation as the American debt, some equitable interference of the Government would take place. The South Sea scheme, in which a change, amounting to one thousand per cent. happened in the value of stock, is well known to have produced an interference, and without any injury whatever to the subsequent credit of the nation. It is true, that in many respects, the case differed from that of the United States; but, in other respects, there is a degree of similitude, which warrants the conjecture. It may be objected, that such a provision as I propose will exceed the public ability: I do not think the public unable to discharge honorably all its engagements, or that it will be unwilling, if the appropriations shall be satisfactory. I regret, as much as any member, the unavoidable weight and duration of the burthens to be imposed; having never been a proselyte to the doctrine, that public debts are public benefits. I consider them, on the contrary, as evils which ought to be removed as fast as honor and justice will permit, and shall heartily join in the means necessary for that purpose. I conclude with declaring, as my opinion, that if any case were to happen among individuals, bearing an analogy to that of the public, a Court of Equity would interpose for its redress; or that if a tribunal existed on earth, by which nations could be compelled to do right, the United States would be compelled to do something not dissimilar in its principles to what I have contended for.

Mr. LIVERMORE wished the amendment he had formerly mentioned might be made to the original proposition; it was, to insert, before the word "interest," the words, "at a certain rate of."

Mr. SHERMAN apprehended it would strongly imply that Congress meant to reduce the rate of interest, and he did not wish that question involved with the present.

Mr. LIVERMORE's motion being seconded, the question was put thereon, and it being lost,

Mr. MADISON moved to amend the original proposition, so as to read as follows:

Resolved, That adequate funds ought to be provided for paying the interest and principal of the do-

mestic debt, as the same shall be liquidated; and that in such liquidation, the present holders of public securities, which have been alienated, shall be settled with according to the highest market rate of such securities; and that the balance of the sums due from the public, be paid in such proportion to the original holder of such securities.

Mr. BOUDINOT said, he had long been in the habit of paying great respect to the sentiments of the gentleman from Virginia; but he feared, on this occasion, he had not viewed the subject with his usual accuracy. He was not surprised that the gentleman was led away by the dictates of his heart, for he believed he really felt for the misfortunes of his fellow-citizens, who had been the prey of avaricious men. Indeed, it is matter of less surprise, on another account, for heretofore I contemplated the subject in nearly the same point of view. Influenced by a desire to do justice to every person connected with the public, I wished for the means of compensating the original holders, who had sold their certificates at a great loss; but I found the thing, upon long and careful examination, to be both unjust and impracticable.

The honorable gentleman tells us, that the debt was contracted for meritorious services, and inquires whether the creditor received an adequate compensation in full discharge? I say, sir, this debt is still due, and that the person to whom it is due, has received nothing but a certificate as evidence of his claim; but then, if any of our first creditors have put another person in their shoes, the question will arise, are we to disown the act of the party himself? Are we to say, we will not be bound by your transfer, we will not treat with your representative, but insist upon a resettlement with you alone? But the same reasoning will oblige us to go further, and investigate all the claims of those who have received of the Government Continental money, which they afterwards parted with for ten, forty, or one hundred for one.

But, putting all this out of the question, and supposing the motion to be founded on principles of justice, I would ask how it is to be carried into execution? The nature of the public debt will demonstrate its impracticability. A great part of this debt was contracted by the clerks in office, who, when the Continental money was stopped, were supplied with some millions of dollars in loan-office certificates; they were given out in their names, and afterwards distributed among the farmers, mechanics, and others, who had furnished supplies, or performed services. Now, how is it possible that you can ever trace a certificate, under these circumstances, up to the man who was the original *bona fide* creditor? Not from the name on the face of the paper, because it is the name of the clerk in office, the mere agent of the public. Other certificates were taken out of the loan-office, by persons who were not concerned in making the loan; many neighbors sent money by one hand, who went and took out certificates in his own name, which he afterwards returned to the real

FEBRUARY 12, 1790.]

Slave Trade.

[H. OF R.]

lender. I have been entrusted myself with numerous commissions of this kind, when I have been going to the capital where the loan-office was kept. Now suppose, as has been the case, that I took 10,000 dollars from ten of my neighbors, each 1000 dollars, and that I placed the whole in the Continental loan-office at Philadelphia, taking out therefor ten loan-office certificates of 1000 dollars each, which, on my return, I gave to those who had sent their money by me; all these certificates had my name in them, and here I should appear to be the original holder of 10,000 dollars without any right whatever, and the men who deserve much of their country, for the aid they furnished her in the hour of distress, are stripped in a moment of the greatest part of their property. I believe, if we adopt this motion, we shall give room for such scenes of enormity as humanity will be shocked at the bare prospect of. I am, therefore, clearly of opinion, that if the principles be ever so just, we ought to reject it on account of its impracticability.

On motion, the committee rose, and reported progress, after which the House adjourned.

FRIDAY, February 12.

SLAVE TRADE.

The following memorial of the Pennsylvania Society for promoting the Abolition of Slavery, the relief of free negroes unlawfully held in bondage, and the improvement of the condition of the African race, was presented and read:

The memorial respectfully sheweth,

That from a regard for the happiness of mankind, an association was formed several years since in this State, by a number of her citizens, of various religious denominations, for promoting the abolition of slavery, and for the relief of those unlawfully held in bondage. A just and acute conception of the true principles of liberty, as it spread through the land, produced accessions to their numbers, many friends to their cause, and a Legislative co-operation with their views, which, by the blessing of Divine Providence, have been successfully directed to the relieving from bondage a large number of their fellow-creatures of the African race. They have also the satisfaction to observe, that in consequence of that spirit of philanthropy and genuine liberty which is generally diffusing its beneficial influence, similar institutions are forming at home and abroad.

That mankind are all formed by the same Almighty Being, alike objects of his care, and equally designed for the enjoyment of happiness, the Christian religion teaches us to believe, and the political creed of Americans fully coincides with the position. Your memorialists, particularly engaged in attending to the distresses arising from slavery, believe it their indispensable duty to present this subject to your notice. They have observed, with real satisfaction, that many important and salutary powers are vested in you for "promoting the welfare and securing the blessings of liberty to the people of the United States;" and as they conceive that these blessings ought rightfully to be administered, without distinction of color, to all descriptions of people, so they

indulge themselves in the pleasing expectation, that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed.

From a persuasion that equal liberty was originally the portion, and is still the birth-right of all men; and influenced by the strong ties of humanity, and the principles of their institution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bands of slavery, and promote a general enjoyment of the blessings of freedom. Under these impressions, they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men, who alone, in this land of freedom are degraded into perpetual bondage, and who, amidst the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice towards this distressed race, and that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellow-men.

BENJ. FRANKLIN, *President.*

PHILADELPHIA, February 3, 1790.

MR. HARTLEY then called up the memorial presented yesterday, from the annual meeting of Friends at Philadelphia, for a second reading; whereupon, the same was read a second time, and moved to be committed.

MR. TUCKER was sorry the petition had a second reading, as he conceived it contained an unconstitutional request, and from that consideration he wished it thrown aside. He feared the commitment of it would be a very alarming circumstance to the Southern States; for if the object was to engage Congress in an unconstitutional measure, it would be considered as an interference with their rights, the people would become very uneasy under the Government, and lament that they ever put additional powers into their hands. He was surprised to see another memorial on the same subject, and that signed by a man who ought to have known the Constitution better. He thought it a mischievous attempt, as it respected the persons in whose favor it was intended. It would buoy them up with hopes, without a foundation, and as they could not reason on the subject, as more enlightened men would, they might be led to do what they would be punished for, and the owners of them, in their own defence, would be compelled to exercise over them a severity they were not accustomed to. Do these men expect a general emancipation of slaves by law? This would never be submitted to by the Southern States without a civil war. Do they mean to purchase their freedom? He believed their money would fall short of the price. But how is it they are more concerned in this business than others? Are they the only persons who possess religion and morality? If the people are not so exemplary, certainly they will admit the clergy are; why, then, do we not find them uniting in a body, praying us to adopt measures for the promotion of religion and piety, or

H. OF R.]

Slave Trade.

FEBRUARY 12, 1790.

any moral object? They know it would be an improper interference; and to say the best of this memorial, it is an act of imprudence, which he hoped would receive no countenance from the House.

Mr. SENEY denied that there was any thing unconstitutional in the memorial; at least, if there was, it had escaped his attention, and he should be obliged to the gentleman to point it out. Its only object was, that Congress should exercise their constitutional authority to abate the horrors of slavery, as far as they could; indeed, he considered that all altercation on the subject of commitment was at an end, as the House had impliedly determined yesterday that it should be committed.

Mr. BURKE saw the disposition of the House, and he feared it would be referred to a committee, maugre all their opposition; but he must insist, that it prayed for an unconstitutional measure; did it not desire Congress to interfere and abolish the slave trade, while the Constitution expressly stipulates that Congress shall exercise no such power? He was certain the commitment would sound an alarm, and blow the trumpet of sedition in the Southern States. He was sorry to see the petitioners paid more attention to than the Constitution; however, he would do his duty, and oppose the business totally; and if it was referred to a committee, as mentioned yesterday, consisting of a member from each State, and he was appointed, he would decline serving.

Mr. SCOTT.—I cannot entertain a doubt but the memorial is strictly agreeable to the Constitution; it respects a part of the duty particularly assigned to us by that instrument, and I hope we may be inclined to take it into consideration. We can, at present, lay our hands upon a small duty of ten dollars; I would take this, and if it is all that we can do, we must be content: but I am sorry that the framers of the Constitution did not go further, and enable us to interdict the traffic entirely; for I look upon the slave trade to be one of the most abominable things on earth; and if there was neither God nor devil, I should oppose it upon the principles of humanity, and the law of nature. I cannot, for my part, conceive how any person can be said to acquire a property in another; is it by virtue of conquest? What are the rights of conquest? Some have dared to advance this monstrous principle, that the conqueror is absolute master of his conquest; that he may dispose of it as his property, and treat it as he pleases; but, enough of those who reduce men to the state of transferable goods, or use them like beasts of burthen, who deliver them up as property or patrimony to others. Let us argue on principles countenanced by reason and becoming humanity; the petitioners view the subject in a religious light, but I do not stand in need of religious motives to induce me to reprobate the traffic in human flesh; other considerations weigh with me to support the commitment of the memorial, and to support every

constitutional measure likely to bring about its total abolition. Perhaps, in our Legislative capacity, we can go no further than to impose a duty of ten dollars, but I do not know how far I might go, if I was one of the Judges of the United States, and those people were to come before me and claim their emancipation; but I am sure I would go as far as I could.

Mr. JACKSON differed with the gentleman last up, and supposed the master had a qualified property in his slave. He said the contrary doctrine would go to the destruction of every species of personal service. The gentleman said, he did not stand in need of religion to induce him to reprobate slavery, but if he is guided by that evidence upon which the christian system is founded, he will find that religion is not against it. He will see, from Genesis to Revelations, the current setting strong that way. There never was a Government on the face of the earth, but what permitted slavery. The purest sons of freedom in the Grecian Republics, the citizens of Athens and Lacedæmon, all held slaves. On this principle, the nations of Europe are associated; it is the basis of the feudal system. But suppose all this to have been wrong, let me ask the gentleman if it is good policy to bring forward a business at this moment, likely to light up the flame of civil discord; for the people of the Southern States will resist one tyranny as soon as another? The other parts of the Continent may bear them down by force of arms, but they will never suffer themselves to be divested of their property without a struggle. The gentleman says, if he was a Federal Judge, he does not know to what length he would go in emancipating these people; but I believe his judgment would be of short duration in Georgia, perhaps even the existence of such a Judge might be in danger.

Mr. SHERMAN could see no difficulty in committing the memorial; because it was probable the committee would understand their business, and perhaps they might bring in such a report as would be satisfactory to gentlemen on both sides of the House.

Mr. BALDWIN was sorry the subject had ever been brought before Congress, because it was of a delicate nature as it respected some of the States. Gentlemen who had been present at the formation of this Constitution could not avoid the recollection of the pain and difficulty which the subject caused in that body. The members from the Southern States were so tender upon this point, that they had well nigh broken up without coming to any determination; however, from the extreme desire of preserving the Union, and obtaining an efficient Government, they were induced mutually to concede, and the Constitution jealously guarded what they agreed to. If gentlemen look over the footsteps of that body, they will find the greatest degree of caution used to imprint them, so as not to be easily eradicated; but the moment we go to jostle on that ground, I fear we shall feel it tremble under our feet. Con-

FEBRUARY 12, 1790.]

Slave Trade.

[H. OF R.]

gress have no power to interfere with the importation of slaves beyond what is given in the ninth section of the 1st article of the Constitution; every thing else is interdicted to them in the strongest terms. If we examine the constitution, we shall find the expressions relative to this subject cautiously expressed, and more punctiliously guarded than any other part. "The migration or importation of such persons shall not be prohibited by Congress." But lest this should not have secured the object sufficiently, it is declared, in the same section, "That no capitation or direct tax shall be laid, unless in proportion to the census;" this was intended to prevent Congress from laying any special tax upon negro slaves, as they might, in this way, so burthen the possessors of them as to induce a general emancipation. If we go on to the fifth article, we shall find the first and fifth clauses of the ninth section of the first article restrained from being altered before the year 1808.

Gentlemen have said, that this petition does not pray for an abolition of the slave trade. I think, sir, it prays for nothing else, and therefore we have no more to do with it than if it prayed us to establish an order of nobility, or a national religion.

Mr. SYLVESTER said, that he had always been in the habit of respecting the Society called Quakers; he respected them for their exertions in the cause of humanity; but he thought the present was not a time to enter into a consideration of the subject, especially as he conceived it to be a business within the province of the State Legislatures.

Mr. LAWRENCE observed, that the subject would undoubtedly come under the consideration of the House; and he thought, as it was now before them, that the present time was as proper as any; he was therefore for committing the memorial, and when the prayer of it had been properly examined, they could see how far Congress may, constitutionally, interfere; as they knew the limits of their power on this, as well as every other occasion, there was no just apprehension to be entertained that they would go beyond it.

Mr. SMITH, of South Carolina, insisted that it was not in the power of the House to grant the prayer of the petition, which went to the total abolishment of the slave trade, and it was therefore unnecessary to commit it. He observed, that in the Southern States, difficulties had arisen on adopting the Constitution, inasmuch as it was apprehended that Congress might take measures under it for abolishing the slave trade.

Perhaps the petitioners, when they applied to this House, did not think their object unconstitutional, but now they are told that it is they will be satisfied with the answer, and press it no further. If their object had been for Congress to lay a duty of ten dollars per head on the importation of slaves, they would have said so, but that does not appear to have been the

case. The commitment of the petition, on that ground, cannot be contended. If they will not be content with that, shall it be committed to investigate facts? The petition speaks of none. For what purpose, then, shall it be committed? If gentlemen can assign no good reason for the measure, they will not support it, when they are told that it will create jealousies and alarm in the Southern States; for I can assure them that there is no point on which they are more jealous and suspicious than on a business with which they think the Government has nothing to do.

When we entered into this confederacy, we did it from political, not from moral motives, and I do not think my constituents want to learn morals from the petitioners; I do not believe they want improvement in their moral system; if they do, they can get it at home.

The gentleman from Georgia has justly stated the jealousy of the Southern States. On entering into this Government, they apprehend that the other States, not knowing the necessity the citizens of the Southern States were under to hold this species of property, would, from motives of humanity and benevolence, be led to vote for a general emancipation; and had they not seen that the constitution provided against the effect of such a disposition, I may be bold to say they never would have adopted it. And, notwithstanding all the calmness with which some gentlemen have viewed the subject, they will find that this discussion alone will create great alarm. We have been told, that if this would be the case we ought to have avoided it, by saying nothing; but it was not for that purpose that we were sent here. We look upon this measure as an attack upon the palladium of the property of our country; it is therefore our duty to oppose it by every means in our power. Gentlemen should consider, that when we entered into a political connexion with the other States, that this property was there; it was acquired under a former Government, conformably to the laws and constitution, therefore any thing that will tend to deprive them of that property must be an *ex post facto* law, and, as such, is forbidden by our political compact.

I said the States would never have entered into the Confederation, unless their property had been guarantied to them, for such is the state of agriculture in that country, that without slaves it must be abandoned. Why will these people, then, make use of arguments to induce the slave to turn his hand against his master? We labor under difficulties enough from the ravages of the late war. A gentleman can hardly come from that country with a servant or two, either to this place or Philadelphia, but there are persons trying to seduce his servants to leave him; and, when they have done this, the poor wretches are obliged to rob their master, in order to obtain a subsistence; all those, therefore, who are concerned in this seduction, are accessaries to the robbery.

H. OF R.]

Slave Trade.

[FEBRUARY 12, 1790.]

The reproaches which they cast upon the owners of negro property, is charging them with the want of humanity. I believe the proprietors have as much humanity as persons in any part of the continent, and are as conspicuous for their good morals as their neighbors. It was said yesterday, that the Quakers are a society known to the laws and the constitution, but they are no more so than other religious societies; they stand exactly in the same situation; their memorial, therefore, relates to a matter in which they are no more interested than any other sect, and can only be considered as a piece of advice, which it is not customary to refer to a committee; but if it is supposed to pray for what they think a moral purpose, is that sufficient to induce us to commit it? What may appear a moral virtue in their eyes, may not be so in reality. I have heard of a sect of Shaking Quakers, who, I presume, suppose their tenets of a moral tendency. I am informed one of them forbids to intermarry, yet you may see them with a numerous offspring about them. Now, if these people were to petition Congress to pass a law prohibiting matrimony, would gentlemen agree to refer such a petition? I think if they would reject one of that nature, as improper, they ought also to reject this.

Mr. PAGE was in favor of the commitment. He hoped that the designs of the respectable memorialists would not be stopped at the threshold, in order to preclude a fair discussion of the prayer of the memorial. He observed, that gentlemen had founded their arguments upon a misrepresentation; for the object of the memorial is not declared to be the total abolition of the slave trade; but that Congress will consider whether it be not in reality within their power to exercise justice and mercy, which, if adhered to, they cannot doubt must produce the abolition of the slave trade. If, then, the prayer contained nothing unconstitutional, he trusted the meritorious effort of the petitioners would not be frustrated.

With respect to the alarm that was apprehended, he conjectured there was none; but there might be just cause if the memorial was not taken into consideration. He placed himself in the case of a slave, and said, that, on hearing that Congress had refused to listen to the decent suggestions of a respectable part of the community, he should infer that the General Government (from which was expected great good would result to every class of citizens) had shut their ears against the voice of humanity, and he should despair of any alleviation of the miseries he and his posterity had in prospect; if any thing could induce him to rebel, it must be a stroke like this, impressing on his mind all the horrors of despair. But if he was told that application was made in his behalf, and that Congress was willing to hear what could be urged in favor of discouraging the practice of importing his fellow-wretches, he would trust in their justice and humanity, and wait the decision patiently. He presumed that these un-

fortunate people would reason in the same way, and he, therefore, conceived the most likely way to prevent danger was to commit the petition. He lived in a State which had the misfortune of having in her bosom a great number of slaves; he held many of them himself, and was as much interested in the business, as any gentleman in South Carolina or Georgia, yet, if he was determined to hold them in eternal bondage, he should feel no uneasiness or alarm on account of the present measure, because he should rely upon the virtue of Congress that they would not exercise any unconstitutional authority.

Mr. MADISON.—The debate has taken a serious turn, and it will be owing to this alone if an alarm is created; for, had the memorial been treated in the usual way, it would have been considered as a matter of course, and a report might have been made so as to have given general satisfaction. If there was the slightest tendency by the commitment to break in upon the Constitution, he would object to it; but he did not see upon what ground such an event was to be apprehended. The petition prayed, in general terms, for the interference of Congress, so far as they were constitutionally authorized; but even if its prayer was, in some degree, unconstitutional, it might be committed, as was the case on Mr. Churchman's petition, one part of which was supposed to apply for an unconstitutional interference by the General Government. He admitted, that Congress is restricted by the Constitution from taking measures to abolish the slave trade; yet there are a variety of ways by which it could countenance the abolition, and regulations might be made in relation to the introduction of them into the new States to be formed out of the Western Territory. He thought the object well worthy of consideration.

Mr. GERRY thought the interference of Congress fully compatible with the constitution, and could not help lamenting the miseries to which the natives of Africa were exposed by this inhuman commerce. He never contemplated the subject, without reflecting what his own feelings would be, in case himself, his children, or friends were placed in the same deplorable circumstances. He then adverted to the flagrant acts of cruelty which are committed in carrying on that traffic; and asked, whether it can be supposed that Congress has no power to prevent such abuses? He then referred to the Constitution, and pointed out the restrictions laid on the General Government respecting the importation of slaves. It was not, he presumed, in the contemplation of any gentleman in this House to violate that part of the Constitution; but that we have a right to regulate this business, is as clear as that we have any rights whatever; nor has the contrary been shown by any person who has spoken on the occasion. Congress can, agreeably to the Constitution, lay a duty of ten dollars on imported slaves; they may do this immediately. He made a calcula-

FEBRUARY 15, 1790.]

Public Credit.

[H. OF R.]

tion of the value of the slaves in the Southern States, and supposed they may be worth ten millions of dollars. Congress have a right, if they see proper, to make a proposal to the Southern States to purchase the whole of them, and their resources in the Western Territory might furnish them with the means: He did not intend to suggest a measure of this kind; he only instanced these particulars to show that Congress certainly has a right to intermeddle in the business. He thought that no objection had been offered of any force to prevent the commitment of the memorial.

Mr. BOUNDNOT had carefully examined the petition and found nothing like what was complained of by gentlemen contained in it; he, therefore, hoped they would withdraw their opposition and suffer it to be committed.

Mr. SMITH, of South Carolina, said, that, as the petitioners had particularly prayed Congress to take measures for the annihilation of the slave trade; and as that was admitted, on all hands, to be beyond their power, and as the petitioners would not be gratified by a tax of ten dollars per head, which was all that was within their power, there was, of consequence, no occasion for committing it.

The question on the commitment being about to be put, the yeas and nays was called for, and were as follow:

YEAS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Griffin, Grout, Hartley, Hathorne, Heister, Huntingdon, Lawrence, Lee, Leonard, Livermore, Madison, Moore, Muhlenberg, Page, Parker, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sherman, Sinnickson, Smith, of Maryland, Sturges, Thatcher, Trumbull, Wadsworth, White, and Wynkoop.—43.

NAYS.—Messrs. Baldwin, Bland, Burke, Coles, Huger, Jackson, Matthews, Sylvester, Smith, of South Carolina, Stone, and Tucker.—14.

The memorials were referred accordingly.

MONDAY, February 15.

PUBLIC CREDIT.

The House went again into a Committee of the whole on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON's motion for a discrimination being under consideration,

Mr. SEDGWICK.—The proposition, Mr. Chairman, contains a question of the utmost importance. And the committee must be obliged to the gentleman who brought it forward for his very ingenious discussion of the subject of the domestic debt. With respect to the question now before the committee, so much has been said, that I think it will not be necessary to consume much of their time in the investigation. On the subject of contracts I have to observe, that whenever a voluntary engagement is made for a valuable consideration for property advanced or services rendered, and the terms of

the contract are understood, if no fraud or imposition is practised, the party engaging is bound to the performance, according to the literal meaning of the words in which it is expressed. Such contract, whether of a Government or an individual, may be either transferable or not transferable. The latter species of contract receives an additional value from its capacity of being transferred, if the circumstances of the possessor should render a sale of it necessary or convenient to him. To render the transferable quality of such evidences of contract in any degree advantageous to the possessor, it is necessary to consider, in case of sale, the alienee possessed of all the property of the original holder; and indeed it is highly absurd, and even contradictory, to say, that such evidences of debt are transferable, and at the same time to say that there is in them a kind of property that the holder could not convey by *bona fide* contract.

This is the construction which has invariably been given to these contracts, whether formed by Government or by individuals. To deprive the citizen of the power of binding himself by his own voluntary contract; or to prevent a disposition of property in its nature alienable, would be a violent and unjustifiable invasion of one of those rights of which man, as a citizen, is the most tenacious, and would indeed break one of the strongest bonds by which society is holden together.

In the transfers which have been made, the contracts were fairly made; the whole rights have been transferred. It is not pretended any fraud or imposition has been practised. The risk was calculated by the parties, and it was observed, that the risk contemplated a revolution in the Government.

From the foregoing deduction of particulars, it is presumed to be proved that a property is vested in the transferees. That if this property is divested by the Government, the law for that purpose would have a retrospective operation, and that no *ex post facto* law could be more alarming than that by which the right of private property is violently invaded.

Having considered the nature of the contract, and of the obligations which result from it, I beg leave to call the attention of the committee to those circumstances by which that obligation may be destroyed, impaired, or suspended. They are stated to be, 1. Performance. 2. Voluntary discharge. 3. Composition. 4. Inability.

And gentlemen are called upon to give information of any other causes which can produce either of those effects.

With regard, more particularly, to the proposition before the Committee, I have to observe, that with regard to these contracts, there has existed a depreciation in consequence of the failure of Government regularly to pay the interest. That in this depreciated state, the securities have been alienated; that of course the original holders have sustained a loss; that if the

H. OF R.]

Public Credit.

[FEBRUARY 15, 1790]

loss resulted from the fault, and not the misfortune of Government, the creditors have, undeniably, a demand against the Government for compensation; that this demand, however well founded, can never authorize the Government to invade the honestly acquired property of the present possessors, a property warranted by the terms of the contract itself, and sanctioned by the act of Congress, of April, 1783, and the validity of it recognized by the constitution we have sworn to support.

With regard to the claims of the original holders, it is, however, observable, that the domestic creditor, at the time the contract was formed, well knew the nature of the constitution of the Government administered by Congress, the other contracting party; that its power of performance depended on the ability and good-will of the States; that Congress had always performed its duty, had made the necessary requisitions; that this was its utmost power; and that the failure had arisen wholly from the neglect of the States. I therefore submit it to the Committee, whether, if the original holder has a just or equitable demand, he should not resort to the State of which he is a member?

I admit, that the case of an original holder is indeed a hard one; that I have a respect for his misfortunes and for his pretensions; that if satisfaction is discovered to be just and practicable, I would not hesitate to go to the utmost ability of the Government for that purpose. But let me ask, what merit will the Government possess, if it strip one class of citizens, who have acquired property by the known and established rules of law, under the specious pretence of doing justice to another class of citizens?

It was implicitly agreed, that eighty per cent. depreciation would not authorize the interference proposed by the motion. I ask, then, for some point of depreciation to be pointed out, which will authorize such interference.

The question for which I contend has received the universal approbation of mankind; there are no instances of the interference contended for, and this general sense of mankind affords me some evidence of truth.

This contract was founded on a valuable consideration. It was the price of our liberty and independence. The possessor claimed, according to the very terms of the contract, though it is not pretended that the engagements of Government have been performed. No composition with the creditors is proposed; nor is the proposition founded on any pretended inability of the Government; for to comply with the intention of it, 1,600,000 dollars, annually, more than is proposed by the report of the Secretary, would be required.

By reason of the circumstances which have taken place, the honorable gentleman (Mr. MADISON) supposes, that, if the whole amount of a security shall be paid to the present possessor, he will have a sum of money to which the original holder is equitably entitled. If this is

true, then, no interposition is necessary, it being a well-known rule of law, that an action will always lie to recover money out of the hands of another, to which the plaintiff, from the principles of equity and good conscience, is entitled.

With regard to the effects, which will probably result from this measure, I have to observe, that they will be destructive to our national character. That the world is now willing, charitably, to impute our former miscarriages, to events we could not control; but should our first measures, in regard to public faith, be a violent infraction of our contracts, it will sanction all our bitterest enemies have said to our disadvantage. With regard to its effects on credit, little dependence will be placed on the plighted faith of a Government which, under the pretence of doing equity, has exercised a power of dispensing with its contracts, and has thereby formed for itself a precedent of future violations, both with respect to its funds and contracts. With regard to discovering who was the original holder, except so far as respects the army debt, I am certain there are no documents by which the necessary facts can be discovered.

I presume it as a fact, with regard to much the greater part of the debt, that any fictitious name was inserted. And with regard to the army debt, the soldiers, generally, who were in the service at the conclusion of the war, had received ample satisfaction for their services, at the time of their enlistment, having been paid more, on an average, than two hundred and fifty dollars per man.

I have only to add, that the proposed system will lay a foundation for infinite frauds and perjuries, and that it will, beyond all powers of calculation, multiply the evils of speculation.

Mr. LAWRENCE observed, that the proposition of the gentleman from Virginia (Mr. MADISON) derived force from the talents and knowledge of that gentleman in public transactions; but that, on examination, it would be found to contain doctrines very repugnant to the interest and prosperity of the Union.

He then stated, that the debts contracted by the United States were for loans of money, supplies of articles necessary for the public wants, and for actual services rendered in different employments. That these debts were ultimately adjusted and reduced to their present transferable form. That every part of the contract was essential to it. The negotiability was a material part. That the nature of the contract was frequently recognized by the late Government. That, in 1783, Congress recommended certain funds to be established to pay the interest, and put the principal in a course of discharge. That this recommendation was unequivocal, as to the nature of it, and made no discrimination between the possessor and original holder. That the subsequent conduct of that body was conformable to this recommendation. That they had annually called on

FEBRUARY 15, 1790.]

Public Credit.

[H. OF R.]

the States to furnish money to pay the interest, without discriminating between the original holder and present possessor. That they had paid interest on the securities, without making any discrimination. That provision had been made for holders of loan-office certificates that were subject to liquidation, to have them cancelled, and others issued for the specie value. That the holders of certificates were enabled to have them registered, to guard against accidents; and that no distinction was made between the original holder and the alienee. That the transferable nature of the claim was for the benefit of the creditor, because it gave it an active value. That he consented to take it, and consulted his own advantage. That the conduct of the late Congress, since the war, had been uniform in the support of this contract, and they had done no act to impair its obligation, according to the terms of it. That this contract was valid against the Government; for, notwithstanding the truth of the gentleman's observations, that the nation is the same, though the bodies that administered the Government were different, there was yet far greater security; and to remove all doubt, a clause that made all debts and engagements valid against the United States, under the late General Government, valid against the present, was inserted in the Constitution.

He further observed, that this contract having descended upon the Government, there was no right in the Legislature to impair the force of it. That the particular Governments are restrained from passing laws impairing the obligations of contracts. That this interference would be a violation of the contract, between the individuals; when the certificate was transferred; and it would not be presumed, the States being prohibited, that the General Government had the power to do it.

He then adverted to the principles of the gentleman, to wrest the obligation of the public to the original holder; and observed, that the same principles were in favor of the present possessor. That public justice required a performance of contracts, when there was no fraud on the part of the holder. That the possessor had been guilty of no fraud, no deception. That the contract between him and the original holder was fair, and that a hazard and risk attended the purchase adequate to the advantage. That nothing short of a revolution in Government could have produced payment. That if there was an imposition, the public occasioned it; and between the original holder and the public, there might be a claim for retribution. That public faith was as sacredly pledged to the bearer, or present possessor, as to the original creditor. That public credit results from fair and upright conduct; that the Government, to support it, must perform its contract. That this was a contract recognised by them, and as such should be discharged. That the condition we have been in made it proper for us to be cautious on this subject; and even at present,

people doubted our disposition to establish our credit. That this would give a fatal blow to it, and when we should recover, if ever, was doubtful. That the public opinion was difficult to be ascertained; gentlemen had different modes to determine it. He supposed it was better ascertained by the acts of public bodies than by squibs in the newspapers, or by pamphlets written by individuals. That the uniform conduct of men, deputed by the particular States to represent them, in the late General Government, was the best standard; and their opinion, from the year 1783, was in favor of the present possessor. That the conduct of the particular States was another circumstance; that he did not know of any discrimination made by them, though it had been attempted. That the general opinion of men of property was in favor of it; and that these sources of public opinion were more certain than those he had before mentioned.

He further observed, that although he believed gentlemen supposed no advantage would be derived to the United States from this discrimination, yet much would arise. That part of the army was composed of foreigners, many had left the country, others were dead; all their part would be unclaimed. That certificates were issued to public officers to a great amount, and were paid by them to persons from whom they purchased. The difficulty of making proof of the original creditor would be great; and, from this circumstance, great sums would be gained to the public. That there were persons enough who would have sagacity to discern this; and they would doubt the purity of the public motive, should the gentleman's plan be adopted.

He then adverted to the circumstance of the new creditor receiving paper. That this paper might be subject to another liquidation on the same principle as the present. That it would introduce doubt and distrust of public engagements; and there would be no greater security, although a fund was pledged, than there is at present, for whenever the public pleased, they might destroy the obligation. Arguments were improperly addressed to their feelings; but that however hard it may be for the original creditor, who had parted with his certificates, to contribute to pay the debt, yet it would be equally hard on him who had been injured by Continental money, who had been plundered by the enemy, who had had his property burned by them in the course of the war; and that instances of these kinds were numerous.

He then adverted to the doctrine of the Court of Equity; and urged that this Court must be governed by principle. That were the Committee this high Court, and the United States the original creditor, and the present possessor before them; and if there appeared no fraud on the part of the possessor, the original creditor would have no just claim on him. That between the United States and original creditors, the United States were in fault, and the claim, if good, would be against them.

H. OF R.]

Public Credit.

[FEBRUARY 15, 1790.]

He also noticed the resolution of Congress of the 10th of April, 1780, relative to the depreciation of the pay to the army; and declared, that this was limited to persons then in service. Those who had left it, even the day before, had not this justice done them. But that this case was between the United States and the persons rendering them service. The act did not affect third persons; it did not take from one and give to another, as the present measure proposed, and was therefore dissimilar.

He further observed, that his objection to the amendment was on the ground of the contract; yet he would mention some instances to show the impracticability of the scheme. In many cases a State had sold lands for a low price in these certificates. That by the law of this State, creditors residing within the British lines during the war, had received, by law, these certificates, at their nominal value, from their debtors. That British and domestic creditors had received from their debtors large sums at their nominal value. That foreigners were possessed of large sums of the registered debts, in their names, for alienated certificates. That these, and many other instances which might be mentioned, would show the difficulty of devising a scheme, with the checks and exceptions that would be proper, to render it in any manner feasible. It had been objected to the Secretary's report, that it proposed a reduction of interest. He observed, that there was a material difference in a plan that made the consent of the creditor necessary, and one that reduced his capital without his consent. That this part was not now under consideration; but that the scheme of the gentleman from Virginia would add a considerable sum to the provision proposed by the Secretary, from the increased interest to be provided for, and the additional number of officers to be appointed to carry his plan into execution. He concluded with saying, that he was still open to conviction; but that he was, at the time of speaking, against the gentleman's propositions.

Mr. SMITH (of S. C.) remarked, that it was necessary and proper the House should give the subject the most ample discussion. The question had long agitated the public mind, and the people should know that it had occupied the serious attention of their Representatives, and be made acquainted with the principles of their decision. For his part, having bestowed on it the most attentive consideration, he could assert, that the more he contemplated it, the more he was impressed with a conviction, that the proposition was unjust, impolitic, and impracticable. It consisted of two parts: The one was to take away the property of one person; the other was to give that property to another; and this by a voluntary interposition of the House, by a mere act of power, without the assent of the former, or without even the application of the latter. For it was remarkable, that the original holders, who had alienated their certificates, had not come forward with this demand;

and it is presumable, that, had they applied for redress, they would reject any indemnification which was the result of such manifest injustice. To prove that this was taking away the property of a citizen by force, he observed, that the purchaser had, by a fair purchase, acquired a right to the full amount of the sum expressed in the certificate, which it was not within the power of the House to divest him of. No tribunal on earth could lawfully deprive a man of his property fairly obtained. The purchaser bought under the act of Congress, making the securities transferable; and having given the market price, without fraud or imposition, he was, by virtue of such purchase, vested with the complete and absolute ownership of the certificate, as fully as the original holder; and had as much right to demand full payment as the original holder would have had, had the security been still in his hands. Even should the House refuse, by an act of power, to pay him more than half his demand, the other half would still remain against the public; it could not be extinguished. The debt would continue to haunt them; the creditors would loudly clamor for justice, and sooner or later the balance would be paid. Then would they incur all the odium of a violation of private rights, without deriving to the public any advantage whatever. He considered the measure as doing a certain evil, that a possible good might result from it. This was not, in his opinion, the proper mode of doing good. Justice cannot be founded on injustice; and to take money out of the pocket of one man, to put it into that of another, is a precedent which may justify future interferences. This step would lead the House to others: for, if the principle be a just one, then the Government should look into all the transactions and speculations of individuals, in order to correct them, and make retribution to every individual according to his losses. He was persuaded, that the true policy of a Legislative body was, to pursue the broad road of justice, clearly marked out before them; for it was an undeniable truth, that whenever they deviated into by-roads and trackless paths, without any other guide than their own imagination, they would get bewildered in a labyrinth of difficulties, and rejoice to trace back their steps, and regain the plain road. Now, the plain line of conduct is, to do strict justice, such as is enforced in judicial tribunals, between man and man, in a similar case. The debtor is bound to pay the debt to the holder of the security; the contract, between the giver of the bond and the person to whom it was given, is done away the moment the latter assigns it to another person. If A gives a bond to B, who parts with it to C, there is no longer any obligation on the part of A to pay B, but he must pay it to C. A has nothing to do with the private negotiations between B and C, nor to inquire what consideration was given for the security. All that he has to inquire is, whether he really signed it and had value received for it, and the amount

FEBRUARY 15, 1790.]

Public Credit.

[H. OF R.]

of it. He cannot say to the holder, you gave but fifty dollars for this security of one hundred dollars, and I will pay you only fifty; for the law will compel him to pay the hundred. This is a point of justice between man and man. Is there another point of law and justice for the Government? By what rule is the Government to square its conduct, if not by those sacred rules which form the basis of Civil Society, and are the safeguard of private property?

These observations fully refute the remarks of the gentleman from Virginia, that the original holders still have a claim on the Government, notwithstanding they have transferred their securities, and that in cases of individuals bearing an analogy to the present, a Court of Equity would interpose and give redress. The direct contrary is the fact; there never was an instance of a Court of Equity assuming such power. In cases of bankruptcy, which are under the superintendence of Courts of Chancery, the debts of the bankrupt are paid in equal proportions to all the creditors, whether original holders or assignees, and the court never inquires into the terms of the alienation. It cannot be said that the original holder had any claim of justice on the Government; his claim must be addressed to our humanity; but the House have no authority to gratify their humane inclinations at the expense of justice, and by a sacrifice of private rights. If the project is unjust in itself, the application of the property to relieve the distresses of the original holder cannot change its nature—it must still be unjust—the mode of appropriation cannot alter the rectitude or turpitude of the measure. If, therefore, Congress have a right to take away the property of the present holders, they may apply the savings to public purposes; and what appearance would such a scheme have to the world? Would it not forever ruin our national character?

The gentleman from Virginia has said, that justice and good faith are the substratum of public credit; but he was persuaded, that the justice and good faith held out by this plan, would be a substratum of sand, a foundation too weak to support our public credit, which will soon crumble to pieces. If the object of the gentleman be to afford relief to the distressed, without impairing legal rights, let inquiry be made into the cases of those original holders, who sold from absolute distress; let those cases be selected and brought forward, and he would yield to no member in his alacrity to give them every adequate compensation, and to indemnify them for their sufferings; but he could not assent to a proposition which blended together the cases of all the original holders, and gave them the property of others. That there were various classes of original holders; some had sold for purposes of speculation of trade, and had probably made good bargains; and were now in a better condition, than if they had still retained their securities. Others got rid of their securities, because they had no con-

fidence in the Government; these the public were not bound to indemnify; the plan would place them on a better footing than those who, having confidence in the General Government, had, notwithstanding their distresses, kept their securities; for, supposing the former sold eight years ago, for four shillings in the pound, it was not improbable that they had by this time doubled their money; and yet, in addition to that, they were to get ten shillings, which would give them eighteen shillings; whereas the latter would only be able to sell their securities at the market for fifteen or sixteen shillings, after they were funded. Some present holders have received their securities by way of legacy—are these to have one half taken off? Is their patrimonial estate to be torn from them? Had their parents been still living, they would receive twenty shillings in the pound, but the circumstance of death is to strip the children of one-half.

The gentleman from Virginia has said, that giving the present holders, by alienation, the highest market price, would be doing them ample justice; but did the public mean to refund them the money they had actually advanced? No; they were to receive this ample justice by a bit of paper, nominally for ten shillings; but which this very measure would instantly depreciate to eight, or six shillings. They would have his consolation, that, according to the gentleman's reasoning, they would still have a claim against the Government for the balance. For, if the original holder, by selling his certificate for four shillings, has now a just claim against the Government for the balance of sixteen shillings, which it is asserted he has, of course the alienee, to whom the public should now acknowledge a debt of ten shillings, which he would sell for only six, would hereafter have a just demand against the public for four shillings. The reasoning might be carried further, for it would follow, that whenever the public shall pay in paper which shall depreciate, the seller will have a demand against the Government for the difference.

From the distance of time at which these securities were issued, it may be reasonably supposed that many of the original holders are now dead. The average life of man is estimated at seven years, according to the most accurate calculation on insurance of lives. Some of them are dispersed in foreign countries, or settled in the Western Territory; and it would be right, before the House took such a step as this, to understand clearly, to what amount these alienations have been made; at present, they are uninformed on the subject, and have no documents before them. If these alienations are inconsiderable, this project would be dangerous, even admitting its justice. History affords no precedent for the measure. The gentleman from Virginia, whose industry is equal to his ability, would have produced some similar case, had any existed. The South Sea Scheme is totally inapplicable. There the directors of

H. OF R.]

Public Credit.

[FEBRUARY 15, 1790.]

the company having been guilty of the most enormous frauds and villainous practices, the Government confiscated their estates, and bestowed them on the company which they had been the means of ruining, instead of promoting their interests, of which they had been appointed the guardians. Were the purchasers of securities chargeable with any crimes for which they merited confiscation? Were they appointed by law the guardians of the property of the original holders?

Nor was the other instance, respecting the depreciation of pay made good to the officers during the war, more in point; for there the public paid them with the public money, and not with that of individuals.

The Constitution itself, he said, was opposed to the measure, for it was an *ex post facto* law, which was prohibited in express terms. The transfer of public securities was lawful at the time these alienations were made; an attempt, therefore, to punish the transferees is an attempt to make an *ex post facto* law, by making that now unlawful which was lawful at the time it was done. It alters the nature of the transaction, and annexes the idea of guilt to that, which, at the moment of commission, was not only perfectly innocent, but was explicitly authorized and encouraged by a public act of Congress. By that act those who had money were invited to purchase of those who held securities, and now we are called upon to punish the purchasers who bought under that invitation. The Constitution restrains the States from passing any laws impairing the force of contracts; *a fortiori* is the Legislature of the Union restrained. What an example to hold up to the Judiciary of the United States! How could they annul a State law, when the State would be able to plead a precedent on the part of Congress? The right of property is a sacred right; no tribunal on earth can deprive a citizen of his property, unless for a fair equivalent, for the public welfare. The purchaser is vested, by the sale, with an absolute right, to the full amount of the security, and it is beyond their authority to divest him of it. They might, indeed, by an act of power, declare that he should be paid only half; but his right to the other moiety would not be extinguished. It had been said, that the original holder still had a claim against the public, because he had received only two shillings and six pence for services worth twenty shillings. On the same principle, and with more justice, the present holder would still have a claim for ten shillings, because he has the public bond for twenty shillings. No ingenuity can overcome these stubborn principles of law and justice; they are immutable, and must ultimately prevail. The House had been told that if the Government had defrauded the original holders out of their dues, it was fit the public should rectify the fraud. The former Government was not deficient in inclination to do them ample justice; but, from the imbecility of the Confederation,

had not the means. In those days of democratic enthusiasm, the people were afraid of an energetic Government: having so recently experienced the severity of the former one, the citizens of these States were cautious in trusting any Government with power; and it is not improbable that some of the original holders, who suffered their embarrassments, from the want of a Government competent to the payment of its debts, would themselves have opposed vesting Congress with powers adequate to this object. Even the present Constitution, which is a mild one, met with considerable opposition: had it been rejected, the public securities would have never been paid.

Public opinion had been mentioned as favoring the plan. Nothing was so difficult to attain as a knowledge of public opinion; but, as far as he had been able to collect the public opinion, it was against the measure.

Publications in newspapers appeared, indeed, on both sides, but the greatest number against it. The Legislature of this State has strongly expressed its sentiments by rejecting, almost unanimously, a similar project; and in society he had met with but few advocates for it.

Though it had been admitted that no instance of a similar nature had ever existed in other countries, yet it is asserted that this was because the depreciations of public securities in Europe bore no comparison with those in the United States. The securities in England had fallen to seventy per cent. without occasioning an interposition of the Government; and there was no occasion to assert that a greater depreciation would have induced an interference. If the measure was unjust in the one case, it was equally so in the other; the increased rate of depreciation could not justify it; for where would it cease to be unjust, and begin to be just? What is the precise point of depreciation at which the Government could be warranted in stepping in, and depriving the holders of their rights? Right and wrong cannot depend on the argument of depreciation; they are fixed principles which cannot fluctuate.

The hardship of requiring those who have lost four-fifths of their due, to contribute to the payment of taxes, has been noticed. When they sold their certificates, they thought that the person to whom they sold them would one day or other receive something for them; and they knew that he could receive nothing, unless the debts were funded, and that in such case they would be compelled to contribute their proportion of taxes. If they, on the other hand, were impressed with the idea that the purchaser would never be paid, then the bargain was not a fair one on their part, for they took the purchaser's money, and gave him what, in their belief, was not an equivalent.

The impolicy of the measure is evident, because it will check the negotiability of public securities, will enhance the terms of future loans, and injure the public credit. Public debts were said, by some, to be public benefits;

FEBRUARY 15, 1790.]

Public Credit.

[H. OF R.]

doubtful as this doctrine may be, it is acknowledged universally, that without a negotiable quality, instead of being of any utility, they would be a most grievous burthen to the community. Who would purchase, when he had before his eyes the terror of a discrimination? A future occasion may arise, when, from the experience of war or other emergency, a similar attack might well be apprehended. Purchasers, therefore, will be rare, and the risk they run will restrain them from giving the full value of the public securities. This will operate then as a considerable injury to the original holders, who never alienated their certificates, and who ought not to be involved in the pernicious consequences of this measure. With respect to impracticability, it was not the strongest objection with him; because, if he were persuaded that it was both just and politic, he would go every length in endeavoring to accomplish it; but, even on this head, difficulties innumerable appeared. Some which were unanswerable had been mentioned, and it has been clearly shown that it is absolutely impossible to trace the original holders. He had chosen to combat the measure on its principle, because he thought it was not a just one, and the establishment of it might lead hereafter to future interferences and unhappy consequences.

It was the wisest policy of Government to adhere strictly to their plighted faith, when it was in their power to do so, even should such strict adherence work an injury to some part of the community. This was the practice with nations in the case of a treaty, which, when made by competent authority, they considered themselves bound to observe, although they deemed it disadvantageous to them, lest a refusal should deter other nations from treating with them in future. It is by this line of conduct that public credit can alone be supported. Whatever may be the merits of the alienors, or the speculations of the alienees of public securities, it is not the business of Government to interpose; these are contracts, they must be paid as far as the public resources will extend. The claim of those unfortunate creditors, whose distresses drove them to the necessity of sacrificing their certificates, form a claim on the humanity of Congress; and he should not be opposed to giving them relief, provided the funds were taken out of the Public Treasury, and not in the manner proposed. In whatever light be viewed the project under consideration, he felt a strong conviction that it was such a one as ought to be rejected.

Mr. AMES agreed with the gentleman from Virginia (Mr. MADISON) in regard to the validity of the debt. There was propriety in saying the nation is the same, though the Government be changed. The debt is the price of our liberties, and cannot be diminished a farthing, the gentleman from Virginia says; and why? Because the Government, as one of the contracting parties, cannot annul, or vary the bar-

gain, without the consent of the other. If the measure proposed by that gentleman corresponds with that sound principle, he should have the pleasure of agreeing with him on the ultimate decision; but if the measure should be found, on a fair discussion, to be subversive of that principle, it would not merit the countenance of the committee.

A claim upon our justice is made, on behalf of the original holders of securities, who have transferred them. Does the plighted faith of the country stand charged to pay the difference between the price their securities sold for in the market and their nominal sum? In order to make the affirmative appear, the worthy gentleman has said, that the paper is the only evidence of a prior contract; and while the paper was sold, the residuary right to the debt still remained in the seller. Supposing this novel doctrine to be true, which cannot be conceded, it will not warrant any conclusion in prejudice of any purchaser of the Loan-office debt; for the paper was given when the loan was made; as no prior debt existed, the paper is the very debt. The gentleman ought, therefore, to confine his motion to the army debt, as his principle seems inapplicable to any other. And even on liquidating the army debt, the certificate extinguished the prior debt; otherwise the public would be twice charged. As, when one man owes another an account, and gives his bond for the balance, the account is no longer of force. By the terms of the certificate, the person transferring has lost his claim against the public. He has freely transferred; for if violence or fraud were practised, the law will afford him redress. In society, as well as in a state of nature, property is changed by the consent of the last occupant. He may dispose of it by gift or at half price, and give a complete title. Nor will the pretence that this transfer was free, only in appearance, avail; for the motives which disposed the owner to sell cannot affect the right of the purchaser. Every such creditor risked something; either that the Government would not pay him at all, or not in due season. The risk, computed in free and open market, will be nearly right. It is a kind of insurance against these risks, and the insurers and insured will calculate the rate of insurance better than Government can do it. If there is a new risk of Government interposing, it seems that the purchaser, who may be called the insurer, did not rate his risk high enough. It seems pretty clear, therefore, that there is no claim on the stipulated justice of the country.

Another sort of justice is set up; a different sort from that which we were taught in the schools and churches; it is called abstract justice, and it is said to demand allowance for the loss sustained by the failure of public payments. No man respects, more than I do, the merit of the army; but the soldiers, at least, had something towards justice by their bounty.

Stock has sold in England, at fifty per cent

H. of R.]

Public Credit.

[FEBRUARY 15, 1790.]

discount, and yet no retribution has been made. Where then does this new line of justice begin? It can scarcely be denied, that their claim, if they have any, is not a debt. The arguments alleged by the gentleman are addressed merely to the compassion and generosity of the Government. Nor do I know that there is any ground for saying, that public opinion is in their favor. It will be allowed, that if justice is to be done, it should be impartial justice. Partiality would be more cruel than total neglect. Will you refuse to make amends for paper money? For property taken by our army in Canada? For losses sustained during the war? For towns burned? In this last case, it is to be observed, that Government has promised protection; and inability to protect is as much a debt as the case in question. The intermediate holders, who bought at six shillings and eight pence, and despairing of Government, sold at two shillings and six pence, have an equal claim. Are all these to be excluded? Let us not break contracts for half justice. The example of paper money is adduced to show that the public made up losses; but this is an example of the public fulfilling its contracts, not annulling them. Paper money is a bad source to draw examples from.

But is it true that justice requires the public to pay for all the losses sustained in times of calamity? I think not; for by fraud the Government would be obliged to pay for more than was lost. The resources of the sufferers will more easily repair such losses than the Government can make them good; and besides, in extreme cases, it would extend and prolong the evil. If an army should invade England, and the city of London should be burned, and the country laid waste by the order of the King, all Europe could not pay for it. What is justice? A line of public conduct which necessarily tends to utility. No pretence of abstract justice can be valid, if it tends to evil rather than good.

But if there subsists a claim on the public justice, it cannot impair the debt, in the hands of the present holder, for which the public faith is pledged. It is alleged that the seller, who sold for a trifle, will be taxed to pay the purchaser. He certainly ought to fare as other citizens do. But taxes are in proportion to property. If he has property, then the plea of necessity is destroyed; if he has none, then his taxes will be a mere trifle.

The project is not justice, even to those whom it pretends to relieve. If you allow less to the purchasers than they gave, it is downright robbery; if you allow more, it is half-way justice to those who have sold. I would not risk every thing to do justice, as it is called, and then not do it.

But this fragment of justice cannot be given to some, without wronging others; you impair the property in the hands of the present original holders. It is not supposed that the alienated property is nearly equal to that which is still

in the hands of the first holders. Be that as it may, I believe, with confidence, that it would be cheaper for the present holders to pay the market price of the paper proposed to be given to the former holder, than to suffer the shock which this measure would give to the credit of their paper. I will not enter now into the merits of the Secretary's plan; but I think it not difficult to show that he proposes better justice to the present original holders than is contained in the motion, and that the debt, funded on this plan, would sell for more in the market. Great sums have been lent to the public by trustees, who acted for others, and only lent their names. Many original creditors were not first holders: supplies were furnished to contractors for the army, who got credit, and afterwards paid in paper, as they received it of the public. Many towns hired soldiers for a gross sum, and agreed to take the wages. Private debts have been paid at par. A man in embarrassed circumstances, instead of compounding with his creditors for ten or a dozen years' forbearance, paid them at par, or near it, in public money, which, in that period, was supposed to be as likely to be paid as his private note. No less a sum than two hundred and fourteen thousand dollars were paid in this way to one mercantile house, at about fifteen shillings in the pound. Compare the gross injustice of these cases with the pretended justice of the motion; consider what it pretends to pay the purchaser. But Loan-office certificates have sold from fifteen and eighteen shillings in the pound to five shillings. Foreign purchasers gave more than our market price. Before they bought, they got certificates of the nature of the debt, that it was not liable to any deduction, and that the transfer would be valid. People in the first offices in this country, and abroad, signed them. Five hundred thousand dollars were bought for one Dutch house, and registered, and the partners in the sum have divided the certificates by giving their own bonds. What will be the effect? Justice or injustice? In these cases, the gentleman will admit, that the rights of these people are perfect. The debt, he says himself, cannot be diminished a farthing; property is sacred; the right to a single dollar cannot be violated. Let the gentleman then acknowledge that he must give up his project or his principles.

I have endeavored to show what sort of abstract justice this is. But if it should be allowed that there is a claim of justice, what then? Let them claim justice of those who have done them injustice, not of the fair purchaser.

Let us examine the claims of the purchasers. The gentleman's argument on this point merits attention; if it is right, for its novelty in Congress; if wrong, for its tendency. Here I think it necessary to apologize, not for my sentiments, their apology must spring from their propriety, but for the manner in which I express them. My zealous conviction may seem to arraign the opinions of other gentlemen, whom

FEBRUARY 16, 1790.]

Public Credit.

[H. OF R.]

I respect as I ought. I know that men of the best intentions entertain a favorable opinion of a discrimination. There is a wish to do more than justice to the one, and the heart, betrayed by its sympathy, consents to injustice to the other. But, sir, I cannot claim the merit of moderation on this point. I will not pretend that I doubted first, and then decided. The principles of my education, and the habits of life, predisposed me to believe, and my short experience and reading have confirmed it, that nations cannot admit cunning into their councils without its shedding a malignant influence on their affairs. Experience teaches Government, as well as men, that nothing is safe that is wrong. We have endured tender-laws, and the pitiful expedients of a trickish policy. Our experience has cost us dear. The old Congress, however, were guided by other maxims; with little power, and scarcely retaining the mock representation of it during the whole year, they prosecuted the objects of an honest policy with a zeal which repulses and despair could not extinguish. They could say with Francis the First, after the battle of Pavia, "We have lost all, except our honor." They resolved against discrimination, and foreigners, as well as citizens, bought securities under the public faith. But when the Constitution was framed, adopting the debts as valid, restraining *ex post facto* laws, and laws impairing contracts, who entertained any suspicion? The speech of the President, and the resolutions of the House in favor of public credit, banished it. Does this look as if public opinion was hostile to these purchasers? If it really is, it is more a duty on Government to protect right when it may happen to be unpopular, that is what Government is framed to do. If, instead of protecting, it assumes the right of controlling property, and disposing of it at its own pleasure, and against the consent of the owner, there is a cheat in the compact.

It will be admitted, that there is a right vested in the purchaser; Government cannot diminish it a farthing, says the gentleman; but he says we cannot pay both. Then abide by your word of honor; prefer perfect rights, by solemn compact, to claims on your compassion. The claims of the present holders, you say, are just; are the others more than just? Treat all just claims alike, and do not rob on the highway to exercise charity. Why make one creditor pay another? He says, Government is to get nothing by this; and yet he says, we owe these people, and our creditors shall pay them. Is paying a debt in this way not getting money? He talks of rival claims; there is no rivalry; the sellers agreed that there should be none. If Government is bankrupt, compound with your creditors. Will this act of violence console the sufferers? Will they enjoy, as a favor, the violation of the rights for which they fought? The South Sea and Mississippi schemes have been adduced as examples. In the former, Government interposed to fulfil the contract. The

Mississippi is not parallel. What the gentleman calls public justice, I am sure he would not practise in his own case.

I have chosen to consider the principle of the motion; but it cannot be carried into execution. We have seen that justice, in the abstract, will not be done, nor can the measure proposed be effected. We may very well suppose that innumerable difficulties will arise in practice which cannot be foreseen. The detail will be endless; an account must be opened for each claimant, public offices must be opened, officers multiplied, and great expense incurred; there is no clew, by the records, to the cases of money deposited by agents for other people. I have inquired, and am told that it is not possible. Will you admit oral evidence, and of persons interested? Will you fill the land with discontent, corruption, suits, and perjury? The new paper, if not transferable, will be no great relief; if transferable, there will be a new harvest of speculation; the after-crop will be more abundant than the first cutting. A purchaser keeps his note for twenty shillings, by law you make it a note for ten shillings. How many frauds will be practised on the unwary? If the mind balances on these points, let policy turn the scale.

Will not this measure shake Government? Instead of doing as it has promised, Government is to do as it pleases. Right is to depend, not on compact, and sacred faith, and the constitution; but on opinion, on a major vote, where nothing, not even right, is fixed, will not the Government be liable to perpetual commotion?

How will it effect our national character? How will it effect public credit? We shall have to pay for meddling, if we in future should have any credit. The famous *Colonel Chartres* said, he would give one hundred thousand pounds for a character—not for its own sake, but because he could get two hundred thousand by it—*Henry VIII.* borrowed money on his personal security; and his base Parliament voted, that as he had done great things for the realm and church, he should be discharged from those obligations. *Charles II.* shut up the Exchequer. What was the consequence? *King William* paid fourteen per cent. on annuities, and at the rate of ten and twelve per cent. interest; but by good faith, in five or six years money fell to five per cent. interest. By breach of faith, we vote the Government into a state of pupilage, and deprive it of its powers.

I have thus endeavored to show, that there is not a debt subsisting against the public, in favor of the original holders, who have sold out; that the motion is chargeable with partiality, and is inadequate to its pretended object; that it will do injustice to many, and violate the sacred rights of property; that the purchasers are secured by the contract, by the faith of Government, and by the constitution; that the measure is not practicable, and will produce confusion, corruption and expense; and that it will weak-

H. of R.]

Public Credit.

[FEBRUARY 16, 1790.]

en, disturb, and disgrace the Government, and impair its credit.

I have made this recapitulation of my argument, in order to bring it into one view—if it is just, or only plausible, let us ask, what will be the effect? Is this what was expected under the new constitution? Did we expect it? Is there one here who has not told the people, that an end would be put to tender acts and paper money, and the ruinous effect of Government's interposing in contracts? Who, in or out of Congress, did not suppose that the letter and spirit of the constitution said as much? The spirit of the times said more. Will not the people charge us with violating the Constitution and the rights of property? If we plead necessity, they will demand, how came it that we were ignorant of it? And, if it exists, what is there that breach of faith can save that good faith would lose? Or, what will that be worth, which may be secured by a measure that will tarnish our national honor, and transmit to our children an inheritance of reproach? Is there no refuge but in dishonor? We have borne adversity before, and we had rather submit to the worst events of an honest policy—and this project is not to relieve any burdens; for Government is to rob, not for plunder, but to get the reputation of justice.

If our own citizens say this, what will foreigners say? They will not be restrained, either by the opinion of their fellow-countrymen, or by attachment to our prosperity. They will detail their losses, and the arts by which their confidence was gained—they will think that we have been taught a species of immoral philosophy—that we administer Government by a kind of cunning logic, which confounds right and wrong—they will rejoice that the Mahratas and Americans are at a distance; the ocean has not hitherto proved a barrier against our depredations. An American abroad will be obliged to deny his country.

However, I still believe that justice is a law to Congress; but if justice, and public faith, and honor, have ceased to be things, let them cease to be names—let them be blotted from the vocabulary of our nation. If they have no being, why should they be made use of to conjure up church-yard terrors, to haunt the hypochondriac imagination?

I will not be so uncandid as to charge the worthy gentleman with such intentions. I think so highly of his probity and patriotism, that if he can be made to see that these consequences will follow, or only be apprehended, he will give up his scheme. But if Government has this right, what right of private property is safe? In the East, Government is said to be the sole owner of property, and may resume it at pleasure. This absurd doctrine will not find advocates, for it would not do for practice, even where it may not be denied to be true; human nature revolts against it, it would shock the morality of Botany Bay; it would exasperate, beyond sufferance, the patient slavery of Indostan

—and who can give a good reason why one sort of property should be more sacred than another?

If we pursue another kind of policy, such as the preamble to the constitution declares to be the objects of the Government, this Government, and this country, may expect a more than Roman fortune. The Government may have more credit, the people more knowledge, and the blessings of peace a longer duration than the world has ever experienced. That gentleman helped to frame the constitution. I have no doubt it is the better for his eminent abilities; I hope that the love of his own work, and his zeal for the cause which he has so ably supported, will induce him to abandon a measure, which tends so fatally to disappoint the first wishes of his own heart, and the hopes of his country.

The committee rose, reported progress, and obtained leave to sit again.

• TUESDAY, February 16.

PUBLIC CREDIT.

The House again resolved itself into a Committee of the whole on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

MR. MADISON's proposition still under consideration.

MR. JACKSON observed, that although as young a politician as any on the floor, and convinced that the weight of experience was against him, on so important a national subject, he could not be silent; particularly as he had the honor of seconding the gentleman's motion (Mr. MADISON) now before the House, that it would be therefore expected that he should bring forward his reasons, and the principle which actuated him to it. He confessed, that had he not before leaned to the side of a discrimination, the arguments of that able gentleman would have induced him to support the plan he had brought forward. He was induced on another motive to rise, to show that the numerous arguments of the gentlemen in opposition, yesterday, had not convinced him of the impracticability or injustice of the composition.

The House were told much of the moral obligations we were under of paying our debts, and the impolicy and injustice of interfering with private contracts. The obligation, he believed, was no where denied; the debt was of the highest nature; it was the price of our independence: the only difficulty is, how that debt shall be discharged. He would here observe, that the justice of the plan before the House, had not been so fully objected to, as the impracticability, although it had been asserted to be unjust, by some of the gentlemen who had spoken.

He would consider the justice of the proposition. The House had been told the nature of those contracts, and the valuable considerations of them. The contract, as it struck him, fell

FEBRUARY 16, 1790.]

Public Credit.

[H. OF R.]

under the legal terms of *do, ut des*; I give that thou mayest give—or, I give that I may receive. In all contracts there are three requisites: 1st. The agreement. 2d. The consideration. 3d. The thing to be done or omitted. This consideration is to be an equivalent, or full recompence for the thing to be performed. Let us examine what is the thing to be done, and what the consideration is. The creditor, who was to perform the third article of the contract, held twenty shillings, which was to be given for a valuable consideration. What was this consideration? Two shillings and six-pence. He argued, that if this twenty shillings was worth no more than two shillings and six-pence, the contract was fair and substantial; but, if gentlemen carried the idea further, and declared these twenty shillings was money of equal value with the two shillings and six-pence given, he contended that the contract was destroyed. Equity would relieve, would declare it an unrighteous bargain, that there was not an adequate compensation, and would set aside the contract.

But a gentleman (Mr. LAWRENCE) had told us, that Equity has fixed rules, and that none of those rules would apply. He agreed with them, that it was as necessary for a Court of Equity to be confined by rules, as a Court of Law; but exclusive of the former case, he had mentioned there were two others, under which the present case came—misfortune and oversight. He would quote the authority of *Blackstone*, did he not expect he should, as in former instances, be complained of by that gentleman for it. Here, he said, had been one of the greatest misfortunes; a calamity attending a whole community, a Government unable to pay its debts. Here was likewise an oversight equal to it. Was it possible for the poor soldier, uninformed, to foresee, when he sold his certificates, that they would rise to the present value? Or that he could anticipate the present day, and a second revolution? Equity, then, requires some mode of justice, and the tribunal exists somewhere. I believe, with my friend from Pennsylvania, (Mr. SCOTT,) that we are the tribunal; for Equity must exist somewhere, or the Government is at an end. The Courts of Law, and common Courts of Equity, have no power to interfere; they cannot compel us to their mode of funding our debts. The injury cries aloud for redress; iniquity is in the land; and we are bound, by every principle of justice, to step forward, and do what justice we can.

But perfect justice cannot be done, say gentlemen, and therefore we should not attempt the business at all. The consequences of this doctrine are fatal; they tend to a deprivation of all Courts of Justice: for there is no instance which can be adduced, where, what is termed justice is reconciled to the opinions of all, and where some objection cannot be raised.

But there is no Government on earth, say gentlemen, which ever interfered with assignable contracts. This doctrine has been both countenanced and denied by the gentlemen in

the opposition, in their relation of the South Sea scheme. One gentlemen told us that it did not apply, because the Government was not concerned, and that it was in consequence of their agents' villainous practices only. Another acknowledged the Government was concerned, and bid us take warning from it. He contended, that the case was in point; that if there was any difference, it was in its exceeding the bounds of the present. The Government of England was accessory; the Parliament of England received £7,000,000 for the privilege of permitting the Company to take in the public debts, and allowed them to fund many millions on a footing not subject to their private debts. Yet, after all this countenance, the omnipotence of Parliament assumed the supreme powers of Equity, compelled compensations, discharged debtors, and punished those who had done no more than comply with the letter of the law.

The doctrine was not then novel. In 1712, Parliament interfered between the Royal African Company and its creditors; not when the Company was in a state of bankruptcy, but for years before. The different nations of the world, besides—notwithstanding what gentlemen have advanced with respect to the Constitution, and the impairing of contracts—and the States here had followed it, had passed statutes of limitation to actions, although it was not implied in contracts. The House had a right likewise to guard against frauds.

Public justice, he observed, had not been done; the soldiers, the original creditors, had not been paid; they had not received the equivalent; they had received but two shillings and six pence, and there was twenty shillings due them. That many of those creditors, and the war-worn soldiers, were pining in retirement, in the most cruel situations, and condemning the injustice of that country, whose Congress, in consequence of their exertions, is legislating here this day.

If, then, public justice (which he contended the plan promoted) should be done, public credit would follow; for justice is reason, and credit is a natural consequence of reason; and whether the interest, as gentlemen had told the House, was paid in paper or not, he did not conceive that the plan would in the least effect it. It had not injured Britain in the example before the House.

Public faith, the House was informed, made no distinction; the public faith, he observed, was pledged to the soldiery and to citizens who furnished supplies. It never had been fulfilled, two shillings and six-pence was not the twenty shillings they were entitled to. This principle was even settled at home, by that very Congress some gentlemen so much honor. The soldiers were paid with depreciated money during the war, when Congress liquidated their accounts.

A gentleman (Mr. SMITH) had observed, that this plan places those who have alienated in a better situation than the present original holder,

by adding the ten shillings to what he formerly received. He contended, that the present original creditor would not be injured, nor would they grumble at seeing justice done their more distressed brethren; those who had parted with them had done it, in most instances, from necessity; those who hold at present, are the more wealthy.

The same gentleman had observed, that had the market price risen to twenty shillings, that this plan could not have been adopted. He allowed the difficulty which would arise, but contended, that, in that case, the public faith would not have been discharged; but the case is the reverse, the House knew the market price, and had it within their compass to do justice. But, said the gentleman, the soldier might have kept it to the present moment, and then it would have been worth twenty shillings. Unfortunate, foolish soldier, indeed! he observed, why didst thou not steel thy feelings against the wife of thy bosom, and behold thy beloved children, without a murmur or an exertion, starving on a dunghill? Then thou mightest have kept thy nominal twenty shillings, until it became a real pound. But, added he, is this the language of mercy, or of justice? What will a man not give in exchange for his life? And, if he has feelings, for that of his wife and children?

But public opinion is vague, say gentlemen, and the House has been cautioned against pamphlets and newspapers, as if the plan had been composed from thence. The abilities of the honorable gentleman will give a serious refutation to this charge. As for his own part, he had the candor to assure the gentleman, that he had taken hints, and that he always would take hints, whilst in public life, from any valuable information given in either. Like the berry on the brier, if he could pluck it with safety, he would; and, if a valuable hint was encircled with a torrent of abuse, he would accept the hint, whilst he would despise its attendant.

Sir, said he, public opinion divided us from Britain; public opinion induced us to change the former for the present Constitution; public opinion brought us here to legislate; and public opinion can replace us in our former situations; and however public opinion might be censured by some gentlemen, he trusted she never would need an advocate on this floor.

This public opinion is in favor of the original creditor; it is impossible to be otherwise. The people of America are a grateful people, and they cannot, with indifference, view the earnings of those who established their independence, converted into the coffers of the wealthy and ambitious. The speculator, he contended, was already more than satisfied, if it was only on the principle of interest which had accrued for six, seven, and eight years past, and which they had speculated on since.

He then observed, that, conceiving those objections raised by the opposition refuted, the next consideration was the impracticability.

The gentleman, who had brought the plan for-

ward, was more capable of answering the numerous obstacles thrown in by the phalanx of orators yesterday than himself; but he would undertake to answer a few of them which he had noted.

A gentleman had declared it impracticable; because the quartermasters of the late army, and the clerks of office, received the certificates in their own names; and, as an instance, quotes himself as having received large sums in that manner. But, said he, are not the books, and documents, remaining? Is there not evidence still existing of the original creditor? That gentleman's own objection proves it. We will call him as an evidence; and there is no doubt but mankind are not so debased, but that many other similar confessions will come forward. Besides, there could be a touchstone applied equal to what the highest Court of Equity used, and there is little fear but the truth would be found out, and a detection made of fraudulent claims. The impracticability, he observed, was out of the question, with respect to the speculator, who would receive the highest market price.

But the public accounts were many of them lost. Make it worth the time of the original creditor, and this would be in a great measure obviated.

Again, says a gentleman, (Mr. SEDGWICK,) the certificates are in fictitious names, and he knows an instance in Boston. Then that gentleman is likewise good evidence; and the claim, from his testimony, would be invalidated; but if not, the same equitable proof would be required.

He went on to observe, that here, Proteus like, the gentlemen change their reasoning, and declare the public would be gainers by the mode. He asserted, that it would not be the case by their own account. If, however, the claimant did not come forward, he would contend that the public, not the speculator, ought to be the gainer; that the public here, would possess the same right as an estate left without an heir.

But it had been advanced, that the money would be again generally distributed among the poorer class of people, and that speculators would be flying to every part of the Union to reap second crops. He advanced that such distribution would be a public blessing, and that, by the measure, the tears of the afflicted would be dried up, and widowed hearts be made to sing for joy. The lesson, he believed, had been now taught, and would prevent the extremes of speculation in future. He seemed confident, that the second crop would not be so injurious to the community, or prove so plentiful a harvest to the speculator, as the first.

It was said to be necessary, and we should consequently have a host of officers. Now, he denied that necessity. There were numbers of officers in the Treasury Department who might attend to the business; and a small fee, which would be cheerfully paid, would find officers,

FEBRUARY 16, 1790.]

Public Credit.

[H. OF R.]

if necessary, of responsibility and character in the different States.

But it is an *ex post facto* law. This he denied. No law had yet passed for funding the debt; we have a right to fund the debt as we please. Some gentlemen, opposed to the present principle, join the Secretary in opinion for lowering the interest. We have seen threats, under that idea, not to fund at all; and we cannot compel subscription without the holder's consent.

It is again said, that if Government do this now, they may take the same step hereafter; this, he would observe, was reasoning on surmise. It was not probable, if within the sphere of possibility, that America would ever have a debt in the same situation. Loans, if exigencies should arise, will be procured on adequate provisions; and foreigners, from viewing our justice, and the unanimous resolve respecting them, will place a value and dependence on us. If America is wise, said he, few wars will arise, situate as we are, in a remote country from the warlike nations of Europe. The wars we may expect will be with a few tribes of Indians; great loans will, therefore, not be required. But, supposing all the possible exigencies, the soldier is as necessary a requisite as the supply. Will he trust again your broken faith?

The gentleman from Massachusetts, (Mr. AMES,) he observed, had charged the favorers of the motion with raising church-yard terrors. With what propriety, he could not judge, unless that gentleman, like a man who passing through a church-yard saw an apparition, and had the impression so strongly on his mind, that he insisted on it that all his neighbors saw it also. The dangers that had been magnified were on the other side. We have been told of the fifteen shillings in the pound, paid by foreigners in Holland; and one gentleman (Mr. GERRY) had denounced against us the terrors of the *ultima ratio regum*. Are we, said he, independent or not? If we are, we have a right to modify our own debt. What would Britain or Holland say, should we interfere with their funds? Would they not suppose us deprived of reason, or laugh at our imbecility to attempt it? Those who have purchased in our domestic funds are on the same footing with our own citizens. If we are not independent, it is high time to make ourselves so, whatever power might oppose us. The gentleman who brought forward the motion, had been charged with addressing the passions. This might be retaliated; for declamation had been used for argument on the other side.

Equity, said he, if the cause be equal, will suffer, in many instances, the heart to decide. The gentleman from South Carolina (Mr. SMITH) has declared, that what he has seen written on the subject, has been as much on the one side as on the other; if so, the heart, in this instance, ought to govern; and gratitude and humanity, its noblest principles, are in favor of the original creditor.

He had been against the funding principle at this present moment; but, as the House had determined on it, it became his duty to acquiesce, but on principles of honor and justice. And it was to be remembered, that the landholder of America was the person ultimately to pay this debt, and his property would be mortgaged for it; for although commerce might immediately supply the revenue, the landholder was the consumer; he, therefore, hoped the debt would be funded on principles congenial with their wishes. That class of people, when they contemplated their independent situation, and their domestic happiness, although they would revolt at the idea of filling the pockets of the speculator, would cheerfully advance their proportion for the payment of the soldier and the citizen, whose exertions had procured them the blessings they enjoyed.

Mr. BENSON.—The gentlemen in favor of this motion come forward as the advocates of the late army. I wish, therefore, to be ascertained of one fact, do the army wish a measure of this kind to take place? I apprehend they do not; and I am led to this opinion from a knowledge of the habits of military men; they prefer their honor to every pecuniary consideration, and they generally are actuated by that principle alone. I will state a case. Suppose I purchased an officer's certificate for one hundred dollars, and I was to fund it; the Treasurer would say, you are to receive but fifty dollars, the other fifty are reserved for the original holder. Now, if I was to go and tell the officer, that, notwithstanding my purchase of all his right, title, and claim to the one hundred dollars, the Government would give me but fifty, retaining the other fifty for him. He would answer, I will never receive a farthing of it, because it is your money, fairly and honorably purchased of me. Now, in this case, what would you do? Should these fifty dollars fall to the Government, or to me? I reason in this manner, because I suppose this would be a general case. The Society of Cincinnati, of the State of New York, have, by a resolution, which they have published in the papers, disavowed the principle; and, in Rhode Island, a member of the Society was expelled for taking advantage of the tender-law of that State, and paying off a *bona fide* debt with depreciated paper. I apprehend the principle of action still remains the same throughout the whole of the army. When the soldier conveyed his certificate, there was a contract between the parties, that whatever sum the Government could pay, the whole of it should go to the assignee. Now, by an act of violence, you take the half of it away, and enable the assignor to discharge the contract by paying fifty dollars, when he had engaged that the purchaser should receive one hundred. This is, in effect, the same as the payment of depreciated paper under a tender-law, and would be equally rejected by those whom it is intended to favor.

I would state the case, as if it had happened between the gentleman and myself, could he

hesitate to say the whole sum was fairly mine, and surrender it up, notwithstanding the legal interference of the Government? This is a question I would not suffer myself to reason upon; I would not trust my mind with it, lest it should preponderate in favor of self-interest, though against the common principles of truth and justice. I cannot think the army would accept the interposition; we ought, therefore, to be cautious how we trifle with the honor of other people.

I do not pretend to say, that the persons intended to be relieved by the proposed scheme have not a claim against the United States; but I deny that it is a claim upon our equity or justice; it may be a claim upon our humanity; and, whether we will satisfy this claim, depends on circumstances which have no connexion with the present question.

MR. JACKSON.—God forbid, Mr. Chairman, that I should trifle with the honor of men I value and esteem so highly; it would be the last thing I could think of. But, sir, as a Legislator, I cannot consent that the pittance which was the reward of distinguished services, shall be torn from them by the arts of insidious speculators; but there are others, who have a claim in equity upon our justice, who ought not to be sacrificed to the soldier's honor.

MR. WHITE said, he agreed with the gentleman from Massachusetts (Mr. SEDGWICK) in the principle, that if a contract is made for a valuable consideration, and with the understanding of both parties, the Legislature ought not to interfere in it; and should it appear that the transaction between the original holders of certificates and the purchasers was a fair one, the dispute, in his mind, was at an end. But no gentleman had attempted to show that this was the case, though all the arguments against a discrimination were founded on that supposition. Perhaps it might be said, that every argument ought to be considered as fair; unless the contrary be proved. But where one man has obtained the property of another to the amount of £100 for £10, or £12. 10s. the transaction must be explained to him, before he would believe it to be honest. What is the present case? The original holders, who have parted with the evidences of their debts, were principally common soldiers, militiamen, and farmers in indigent circumstances. Who were the purchasers? The Secretary of the Treasury tells us, that the most enlightened among our citizens are the creditors of the United States; common soldiers cannot be comprehended in this description. What must have passed, he asked, between the soldier, the militiaman, or farmer, and the purchaser? What reason could the purchaser assign for offering £10 for a paper which specified an obligation to pay £100? It must be something like this—the States will never pay you; if they do, it will be at a very remote period, so long as to be useless to you; but to relieve your present necessities, I will take the risk on myself, and

give you £10. Now, could any enlightened man, he asked, in 1783, or at any subsequent period, in which time the transfers took place, believe that the independence of America was in danger, or that the debts could not be provided for?

He knew so many instances of transactions like that which he had stated, that he doubted not the greater part of the certificates had been obtained by similar means. Indeed he could not conceive any other by which they could be obtained.

He said we were, perhaps, without a precedent in any other nation which would be strictly applicable; but he desired gentlemen to determine for themselves, whether, under such circumstances, the man who had rendered services to his country should be deprived of his reward, or whether the purchaser ought to receive it. He said it was very different in the common transactions of life. If a man purchased a tract of land for £1000, paid the money, and took a bond for the conveyance, a third person, by informing the purchaser that the seller could not make a title, or by other false suggestions should obtain a transfer of the bond in consideration of £100, and get a conveyance and possession of the land, yet, on repaying the £100, the conveyance would be set aside, and he would be restored to his land.

He gave some other instances of a similar nature, and said, he believed, if a bond, whether due, or to become due, was assigned under such circumstances, that the obligee would be justifiable in contesting it in a Court of Law, and that the injured person would, on application, obtain redress. He said, that in cases of extreme hardship, Courts of Equity would give relief without express proof of fraud; that this was the law of Great Britain, and was agreeable to the principles of the civil law; that the Roman jurists, he believed, had fixed the point of extreme hardship to one half of the value of the property transferred; in England the Court was to judge.

He said he did not think the present holders were strictly entitled to any thing more than the original purchasers; that here the maxim, quoted on the other side of the question, that the assignee stands in the shoes of the assignor, properly applied. You cannot place another on more advantageous ground than that on which you stand yourself. The plea of an innocent purchaser could not take place; the nature of the transaction must appear evident to every man concerned in the transfer.

He said the reverse of this did not hold. An assignee was not always in as advantageous a situation as the assignor; and instanced the case of an executor who should obtain the assignment of his testator's bond at an undervalue; and who, he said, could not retain in his hands the amount of the sum specified in the bond, which the creditor might have recovered, but only the sum which he actually paid for the bond.